

From: CPD_Announcements
To: [Cownie, Frank](#)
Cc: [Ritter, Dan E.](#); [Johansen, Chris M.](#)
Subject: 10/17- Joint Message from HUD IG and CPD to All Grantees
Date: Monday, October 17, 2016 1:28:48 PM
Attachments: [Internal Controls Integrity Bulletin CPD.pdf](#)

October 17, 2016

A Message from: HUD's Principal Deputy Assistant Secretary for Community Planning and Development, Harriet Tregoning, and Inspector General, David A. Montoya

Implementing the Five Key Internal Controls

Internal controls are processes put in place by management to help an organization operate efficiently and effectively to achieve its objectives. Managers often think of internal controls as the purview and responsibility of accountants and auditors. The fact is that management at all levels of an organization is responsible for assuring internal controls are set up, followed, and reviewed regularly. The purposes of internal controls are to:

- Protect assets;
- Ensure records are accurate;
- Promote operational efficiency;
- Achieve organizational mission and goals;
- Ensure adherence to policies, rules, regulations, and laws.

In administering various HUD Community Planning and Development (CPD) programs, grantee and subrecipient organizations deal with risks to achieving their organizational and programmatic goals. No rules, bad rules, or failure to follow rules disrupt the effectiveness of the internal controls and, ultimately, mission delivery. The attached Integrity Bulletin explains the five internal control standards—control environment; risk assessment; control activities; information and communication; and monitoring—and ways to implement them effectively. It also provides case examples of deficiencies in internal controls and how those issues could have been avoided.

The states, local governments and nonprofits that use CPD program funds are encouraged to review this Integrity Bulletin and apply lessons contained herein to current and upcoming internal control activities. We would also like to get your feedback on the usefulness of the Bulletin. If you have comments to share please direct them to Alexa Rosenberg at Alexa.E.Rosenberg@hud.gov.

For more information on internal controls or other CPD program related issues we encourage you to utilize HUD's Technical Assistance website, the HUD Exchange (www.hudexchange.info).

Thank you for your time and thank you for your work on HUD's CPD programs.

Sincerely,

Harriet Tregoning

David A. Montoya

Principal Deputy Assistant Secretary for
Community Planning and Development

Inspector General



Integrity Bulletin

U.S. Department of Housing and Urban Development
Office of Inspector General

Fall 2016

Implementing the Five Key Internal Controls

Purpose

Internal controls are processes put into place by management to help an organization operate efficiently and effectively to achieve its objectives. Managers often think of internal controls as the purview and responsibility of accountants and auditors. The fact is that management at all levels of an organization is responsible for ensuring that internal controls are set up, followed, and reviewed regularly. The purposes of internal controls are to:

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- Promote operational efficiency;
- Achieve organizational mission and goals; and
- Ensure compliance with policies, rules, regulations, and laws.

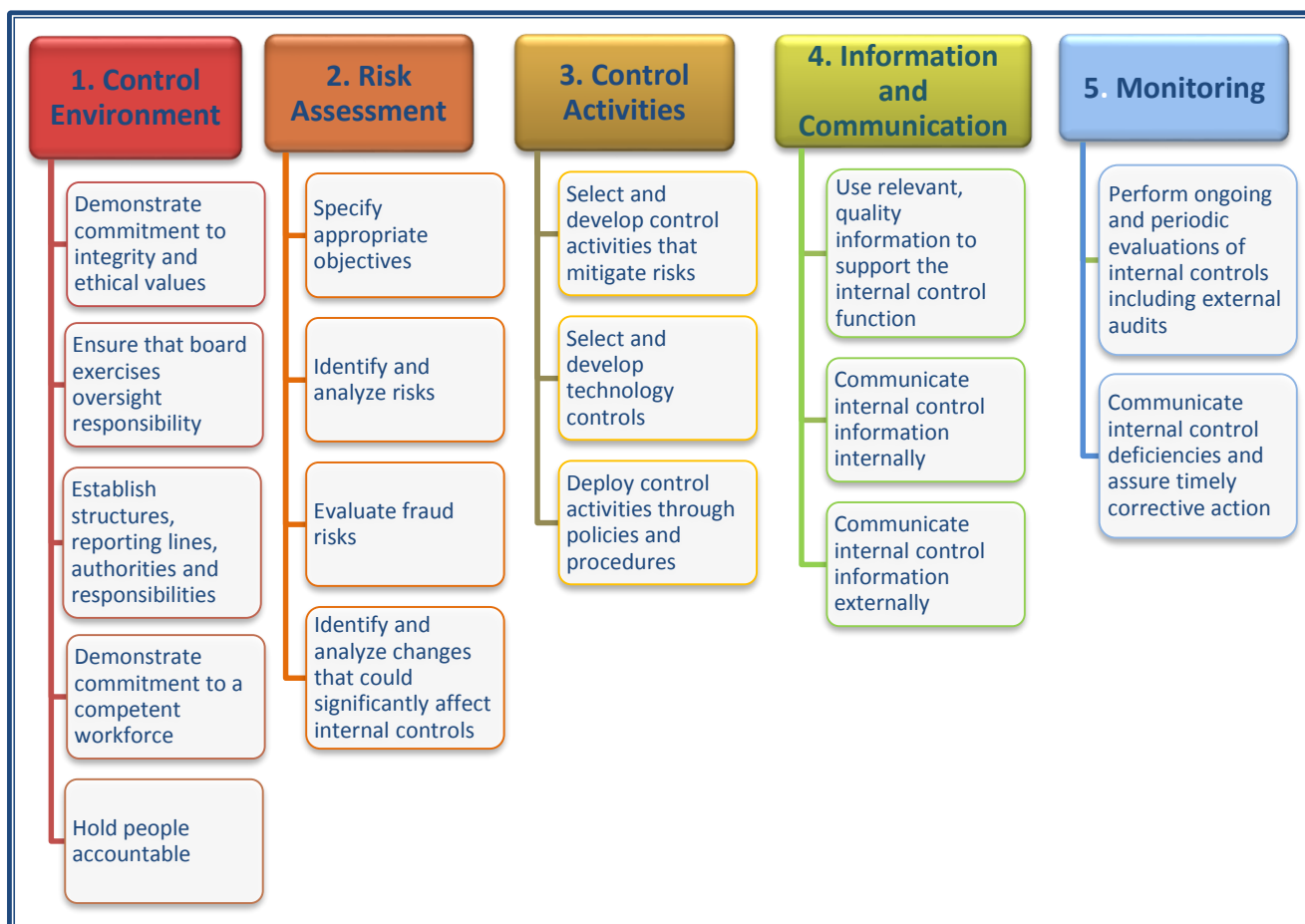
In administering various U.S. Department of Housing and Urban Development (HUD), Office of Community Planning and Development (CPD) programs, all grantee and subrecipient organizations deal with risks to achieving their organizational and programmatic goals. No rules, bad rules, or failure to follow rules disrupt the effectiveness of the internal controls and, ultimately, mission delivery. This bulletin explains the five internal control standards and ways to implement them effectively. It also provides case examples of deficiencies in internal controls and how those issues could have been avoided through use of internal controls.

Background

If your grant or subgrant is subject to the uniform administrative requirements of [2 Code of Federal Regulations \(CFR\) Part 200](#), then [2 CFR 200.303](#) requires that your organization follow one of the two approved internal control frameworks. The Government Accountability Office (GAO) Standards for Internal Control in the Federal Government (commonly called "[the Green Book](#)") is one of the frameworks, and the Committee of Sponsoring Organizations (COSO) has issued [the other](#). The former is used by the federal government, while publicly held companies use the latter.

Both GAO and COSO provide a framework for designing, implementing, and operating an effective internal control system. Using either will help achieve your objectives related to operations, reporting, and compliance. The frameworks have 5 components of internal control and 17 sub-principles.

Summary of Internal Control Standards



These standards are the foundation of good management and are described in more detail below.

Key 1. Establish a Control Environment

The control environment is the culture, values, and expectations that organizations put into place. Ways to establish and nourish the environment are:

- Set “tone at the top” by implementing and promoting ethical standards, integrity, and accountability policies;
- Set mission, goals and objectives (strategic planning) so the organization knows what it is to accomplish;
- Establish structure, organizational responsibilities, and reporting chains;
- Hire competent and trustworthy staff members and provide necessary training for them;
- Provide leadership and good governance by staying on top of operations and performance, and correcting problems when identified;
- Emphasize that compliance with laws and regulations is the expectation for the organization;
- Assure that goals and objectives are clear (especially when there are multiple grant awards) and not in competition with each other or compliance requirements; and
- Hold people accountable for their responsibilities.

Example of weak control environment

An audit of a grantee found deficiencies in six of seven contracts reviewed.

Problems included insufficient evidence that contracts were adequately competed, missing

contract forms and provisions, lack of justification supporting sole-source contracts, and board of commissioners' approvals signed after contract execution or missing. Further, auditors discovered that forms were added to the contract files after the request to review them and evidenced the use of correction fluid to conceal the date printed. The executive director acknowledged that the former purchasing director removed files from the organization. The executive director decided to create or reproduce the documentation before giving the files to the auditor. The audit recommended referral of the executive director to HUD's Departmental Enforcement Center for appropriate action regarding the questionable ethical conduct. The agency should have had policies concerning documentation, record archival, and removal of official records from the office.

Key 2. Conduct Risk Assessments

In the past, risk management focused exclusively on financial dangers. Enterprise Risk Management (ERM) looks at the entirety of an organization and everything that could affect it. Leadership should oversee a risk management process and ways to accomplish this are:

- Have each function identify the risks to operations and performance;
- Brainstorm with staff to determine possible external risks (See the appendix at the end of the bulletin that shows examples of types of risks);
- Learn about emerging risks through employee and customer surveys, etc.;
- Consider the potential for fraud when identifying, analyzing and responding to risks;
- Rate and rank the risks, and discuss controls or other actions needed to eliminate or reduce the risk;
- Develop corrective actions and assign someone to be in charge of implementing each.

Key 3. Implement Control Activities

Control activities are the policies and procedures put into place to run operations, accomplish goals, and prevent fraud. Basic internal control methods are:

- Establish responsibility;
 - Assign each task to only one person.
 - Establish organizational structure.
- Implement separation of duties;
 - Don't make one employee responsible for all parts of a process.
 - Use compensating controls, such as additional monitoring or secondary sign-offs, when separation is not possible.
- Restrict Access;
 - Don't provide access to systems, information, assets, etc. unless needed.
- Create policies and procedures;
 - Implement written instructions with directives to follow them.
 - Assure controls cover all areas of compliance.
 - Assure controls cover security of assets and technology.
- Establish record keeping;
 - Document all expenditures and the justifications for them.

Example of lack of control activities

A grantee city spent \$284,649 in program funds on projects that did not have required executed written agreements with its internal departments and subrecipients. Agreements or memorandums of understanding for these projects should have included the purpose statements and the national objectives they would meet. This condition occurred because

the city did not have internal controls to ensure that internal departments and subrecipients signed agreements before spending program funds. The lack of agreements kept the city from having the authority to monitor the work. The city should have had written policies and checklists to ensure that it had agreements or memorandums of understanding for these projects in place, and should have included the purpose statements and the national objectives the projects would meet. It also should have had controls over spending to ensure that program staff could not spend funds before signed agreements were properly in place.

Key 4. Implement Information and Communication Systems

Communications are essential for every organization. They rely on quality of information and effectiveness of dissemination. Use the following suggestions to guide your information and communication protocols:

- Establish relevant and reliable information systems to track operations, goal progress, and compliance;
- Broadly distribute information throughout the organization to ensure that critical information is delivered to the right staff in a timely way. Ask staff members what information they need but are not getting;
- Establish separate lines of communication, such as fraud and ethics hotlines, for confidential information. Inform employees of these separate reporting lines, how they operate, and how reports are handled;
- Establish both outgoing and incoming lines of communication with external entities. Stay aware of external events that could pose a risk.

Example of problematic information and communications

Seven years after a local government grantee got \$10 million in Federal money to build a cemetery and bus station, neither had been completed. Local authorities claimed they had no documentation about the projects, such as approved work drawings and as-built plans. The local government said it had no information about its own decisions because contractors had the only copies of the paperwork and were holding them for “ransom.” The contractors said they did not cooperate because the local government had not paid them for completed work. The local government should have had a system for capturing information regarding the status of projects, maintained reports available, and provided them to decision-makers, as needed. The local government grantee should have maintained all original records.

Key 5. Monitor Internal Controls

Establishing controls is not enough. Once they are in place, managers need to verify the effectiveness of the controls. Ways to accomplish this include:

- Establish a system of quality control over all processes such as supervisory reviews, approvals, and automated exception checks;
- Conduct routine reviews of actual performance compared to goals and budgets;
- Conduct separate management reviews of a function to determine whether it is working as intended, or controls need to be redesigned. Use the [GAO Internal Control Management and Evaluation Tool](#) to evaluate your internal controls;
- Arrange for external audits and be responsive to findings;
- Track all corrective actions, and ensure that they are implemented and working as intended;
- Use monitoring to tie corrective actions back to improvements in Control

- Environment and Control Activity standards;
- Watch for signs of control problems.

Even strong controls do not always work. As you implement controls be mindful that all of the controls systems are dependent upon people. The effectiveness of internal controls is directly proportional to staffs' willingness to adhere to them.

Example of inadequate monitoring of internal controls

An audit noted that a grantee had inadequate management oversight of its property and financial records. In addition, the grantee lacked adequate policies, procedures, and internal controls governing the use of vehicles, cellular phones, and credit cards. Staff regularly used these assets for personal activities. Paperwork was incomplete and supervisory review was nonexistent. Factors contributing to this noncompliance were the board of commissioners' failure to exercise its leadership and monitoring function. The board or other leadership should have had policies and procedures for the review and approval of expenses and use of assets. They should also have had a means to check that these controls were working through spot checks or other independent means such as audits. If management had monitored expenditure reports, it would have been alerted to the unauthorized spending.

Getting Help

Senior managers are responsible for internal controls, which are key to an organization's ability to achieve its goals. There are five basic standards that managers of CPD grantee organizations should use to ensure effective and efficient operations. Management's use and enforcement of the above methods is a major indicator of an organization's commitment to successful governance.

There are many internal control training and ERM programs available on-line. Many States also offer training or certification programs, as do many associations, including the [Institute of Internal Auditors](#), the [American Institute of Certified Public Accountants](#), the [Association of Government Accountants](#), and the [Committee of Sponsoring Organizations](#). There are also many private training companies that offer generic management and internal control training. You can also consult your local HUD office or independent auditor for ways to improve specific issues you may have with internal control issues.

If you have knowledge of possible fraud, you must promptly report it to your local HUD Office of Inspector General or online at HUD's hotline: <https://www.hudoig.gov/report-fraud%20>.

Examples of Risk Types and Risks

Governance	Financial	Business operations	Compliance and legal	Stakeholders	Physical environment
Weak leadership (ignoring management problems)	Poor budget controls or poor accounting systems	Human capital problems (hiring, performance, training, diversity issues etc.)	Ignoring audit or monitoring findings	Congress funding and passing new laws	Poor safeguarding of physical assets (buildings, equipment, etc.) from loss, damage, and theft
Lack of risk Identification			Not knowing rules	New State and local laws	
Missed or unclear project goals	Unsupported payments	Information technology issues (Equipment, systems, programs, etc.)	Lawsuits, health and Safety issues	New Federal regulations	Physical location risks: Natural Disasters, Super fund site, Flood prone site, etc. Economically depressed site
Pressure on staff that undercuts integrity	Access to cash and accounting records		Allowing discriminatory practices		
Ineligible project activities	Purchase or travel card abuse	Poor recordkeeping	Faulty procurement processes	Political pressures	
Hiring for positions of trust without proper vetting.	Contractor billing Issues	Untimely or Inaccurate reports and communications	Federal law violations	Citizen complaints	Distances to Sites
		No quality control processes	Conflicts of interest		Difficulties Getting to sites
Weak organizational structure	Allowing conditions for embezzlement and other financial fraud	Contractor performance issues	Data security and privacy issues	Bad publicity posing reputational risks	Deteriorating or aging assets (buildings , equipment, and infrastructure)
Failure to monitor goals and finances		Lack of or outdated policies and procedures	Inadequate monitoring of sub-awardees		

While these categories and examples are not all inclusive, they show the breadth of areas senior leadership must consider and manage, to the extent possible.

From: CPD_Announcements
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Subject: 1/17- Joint Message from HUD IG and CPD to All Grantees
Date: Tuesday, January 17, 2017 4:43:33 PM
Attachments: [Financial Management Integrity Bulletin CPD.pdf](#)

January 17, 2017

A Message from: HUD's Principal Deputy Assistant Secretary for Community Planning and Development, Harriet Tregoning, and Inspector General, David A. Montoya

Key Components of Financial Management for CPD Grants

Financial management is the systematic application of procedures, forms, rules of conduct, and standards. As a grantee or subrecipient in receipt of Federal funds, your financial management practices must comply with the cost principles established by the Office of Management and Budget (OMB). This Bulletin is intended to identify components of a sound financial management system and offer guidance on avoiding some of the common challenges grantees face when managing Federal funds.

A well-organized financial management system is key to ensuring that Federal funds are used for their intended purposes and that program goals are achieved. Sound financial management practices:

1. Increase efficiency by reducing administrative burden and allowing the organization to spend more time administering programs and fulfilling its mission;
2. Promote integrity, transparency, and accountability by ensuring that all financial transactions are clearly documented using methods that are easy for both grantees and HUD to understand;
3. Ensure that all expenditures are accounted for within the budget;
4. Facilitate compliance with all applicable regulations including Federal cost principles, program-specific requirements, and local rules.

This Bulletin addresses five of the seven key components of financial management: 1. budgeting; 2. accounting and records; 3. cost principles; 4. reporting; and, 5. audits. The other two components, procurement and internal controls, are the subject of previous Integrity Bulletins, which can be found at: <https://www.hudexchange.info/resource/5065/hud-integrity-bulletins/>.

HUD recently completed a major update of the regulations related to financial management by grantees. In their turn, grantees must update their policies, procedures, contracts, and other documents to conform to the new standards. HUD has observed that even the most competent grantees may struggle to be sufficiently thorough and detailed in this update. One resource that may be useful for grant managers is the Guide for Review of Financial Management required of certain disaster recovery grantees to allow HUD to assess their financial proficiency prior to grant award. Much of this guide is generally applicable and may be helpful for grantees in guiding review and update of financial management systems. The guide may be found at: <https://www.hudexchange.info/resources/documents/PL-114-113-Guide-for-Review-of-Financial-Management-for%20CDBG-DR-Grantees.pdf>.

The states, local governments and nonprofits that use CPD program funds are encouraged to review this Integrity Bulletin and apply lessons contained herein to current and upcoming financial management activities. We would also like to get your feedback on the usefulness of the Bulletin. If you have comments to share please direct them to Alexa Rosenberg at Alexa.E.Rosenberg@hud.gov.

For more information on financial management or other CPD program related issues we encourage you to utilize HUD's Technical Assistance website, the HUD Exchange (www.hudexchange.info).

Thank you for your time and thank you for your work on HUD's CPD programs.

Sincerely,

Harriet Tregoning
Principal Deputy Assistant Secretary for
Community Planning and Development

David A. Montoya
Inspector General



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The Importance of Sound Financial Management Practices

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Key Components of Financial Management

This Bulletin addresses five of the seven key components of financial management: 1. budgeting; 2. accounting and records; 3. cost principles; 4. reporting; and, 5. audits. The other two components, procurement and internal controls, are the subject of previous Integrity Bulletins, which can be found [here](#).

1. Budgeting

Budgeting is a key component of financial management because it provides the overall plan for spending, both across the organization and on specific activities, within a given timeframe. Budgeting requires accounting for both revenues and expenditures at unit, project, and program levels. Budgeting also provides an ongoing check for reasonableness by comparing actual expenditure requests against projected expenditures. Budgets should be included in contracts and written agreements so



that partners know how much and on what the money should be spent.

Example of failure to follow a budget

A recent Office of the Inspector General (OIG) audit found that a HOME grantee exceeded the amounts specified in its subrecipient agreements by more than \$900,000. Although the expenditures reviewed were supported by backup documentation, it was not clear if these costs were also charged to other Federal funding sources. The grantee should have reviewed the total sources and uses of funds to determine whether the deviations from the agreed-upon budgets resulted in duplicative or excessive payments of Federal funds.

Budgeting Tips:

- Include program income in the budgeting process. Program income is the gross income received by grantees and their subrecipients generated by the Federal grant funds. Unless otherwise stated by the grant regulations or the terms and conditions of the Federal award, [2 CFR Part 200.305\(b\)\(5\)](#) requires program income to be used for current costs prior to drawing from the Federal line of credit.
- Manage budgets to ensure timeliness. Timeliness refers to how quickly grantees and recipients are able to commit and expend grant funds.
- Keeping up to date with commitment and expenditure schedules, attainable benchmarks, and alternative plans are essential to staying on track with spending.
- Minimize the time elapsing between the drawdown of funds and disbursement.

2. Accounting and Records

Accounting is the next key component of financial management because it ensures that program costs and expenditures are recorded and documented properly. Fund accounting, the type of accounting used by HUD grantees, is a method of recording data based on the sources and uses of funds.



All accounting must meet published standards for accountants, Generally Accepted Accounting Principles (GAAP). Uniform accounting standards exist to help ensure consistency and transparency. Accounting records must include reliable, up-to-date information on the sources and uses of funds, including:

- Amount of Federal funds received
- Current authorization of funds
- Obligations of funds
- Unobligated balances
- Assets and liabilities
- Program income
- Actual expenditure broken down by the grant program and year for which the funds are derived and the activity on which the funds were used

Funds must be spent on eligible items and expended from the appropriate grant source. All spending should be approved by appropriate personnel. The accounting entries must match supporting documentation.

Example of failure to document the sources and uses of grant funds

An OIG audit revealed that a grantee established a grant and a loan program to help victims of a natural disaster. Of 12 voucher drawdowns reviewed, 4 did not identify the type of funding (loan or grant) and 8 did not show where funds were spent or applied. Additionally, the total for these eight voucher drawdowns was approximately \$1.2 million; however, supporting invoices amounted to \$1.36 million. The grantee should have ensured that staff had received adequate financial management training and that its accounting system was capable of recording the sources and uses of the grant funds.

Accounting Tips:

- Mistakes inevitably happen, but when they do, correct them as soon as possible. Use adjusting journal entries and correction memos to explain the adjustments.
- Periodic comparisons of financial records to actual assets and liabilities (i.e. reconciliation) should be conducted. In cases where discrepancies are found, corrective action must be taken to resolve such discrepancies.

3. Cost Principles

Federal cost principles are a key component of financial management because they keep ineligible and excessive spending in check. Cost principles are the regulations that determine eligible costs for specific activities, which are outlined in grant agreements and contracts. Cost principles for Federal, state, and local governments and nonprofit organizations are similar, but there are important differences. In 2013, OMB revised OMB financial management circulars A-21, A-87, A-110, A-122, A-89, A-102 and A-133 into 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, effective after December 26, 2014, which updates and defines allowability of costs for all Federal grants. In addition, grantees and subgrantees must comply with state and local law regarding cost reasonableness.



To be allowable under Federal awards, costs must be:

- Necessary and reasonable to carry out the award
- Authorized (or not prohibited) under Federal, state or local laws or rules
- In conformance with OMB guidance
- Consistent with state and local government activities
- Treated consistently
- Allocable to the award-funded activities
- Consistent with Generally Accepted Accounting Principles (GAAP)
- Not used for cost sharing or matching requirements of any other Federal award, unless specifically allowed by OMB
- Adequately documented

Example of unreasonable costs

An OIG audit found that a grantee had charged its housing rehabilitation program more than \$127,000 in salary and fringe benefit costs when it spent only \$11,740 on program activities to help one participant rehabilitate a home. The grantee should have determined the demand for the housing rehabilitation program through the citizens' participation plan or during the application process. If the demand was not sufficient, the program should have been canceled with minimal administrative cost incurred.

Cost Allocation Tips:

- No accounting system can make cost allowability or reasonableness determinations. Staff must be trained in the requirements and have a go-to person who knows the program regulations.
- Organizational leadership is required to set the tone from the top that spending must be reasonable.
- Allowable costs include (but are not limited to):
 - Personnel costs (salaries and benefits) for time devoted to performance of duties funded through the award
 - Cost of materials specifically for the purpose of the award
 - Equipment and other approved capital expenditures
 - Travel expenses incurred specifically to carry out the award
 - Costs that are specifically mentioned in the award regulations as allowable
- Unallowable costs include (but are not limited to):
 - Entertainment costs
 - Costs of legal defense related to civil or criminal fraud
 - Contributions or donations
 - Fundraising costs
 - Lobbying costs
 - Costs that are prohibited by award regulations

4. Reporting

The fourth key component of financial management is reporting because it summarizes for the grantee and HUD the fiscal and programmatic activities and shows whether the program



is attaining its objectives. HUD programs require annual reporting through mechanisms including the Annual Performance Report, the Consolidated Annual Performance and Evaluation Report, and the Financial Summary Report. In addition, HUD uses the Integrated Disbursement and Information System and the Disaster Recovery Grant Reporting System to track financial performance. Grantees should have procedures that provide for the accurate reporting of receipts and expenses in those systems. To achieve successful

reporting, recipients must ensure the following:

- Setting up the grants in the system
- Collecting data, including creation and updating of forms for collection
- Analyzing data for accuracy and completeness
- Submitting data via the HUD-required system
- Applying quality control
- Posting reports publicly for the community, if required

Reporting Tips:

- Establish reporting calendars for both internal use to management as well as official reports to the grantee or HUD.
- Assure time for review and sign-off.
- Ensure reports match accounting records.

5. Audits

Audits are the final key component of financial management because they provide an independent and objective review that determines if the accounting records are accurate. An A-133 audit (Single Audit), is required for expenditures of \$750,000 or more in Federal awards during the grantee's fiscal year. It is important to know what you can and cannot learn from audits conducted by Independent Public Accountants (IPAs). You can learn from your IPA: the financial condition of the entity; the reliability of the financial records; internal control weaknesses, if any; and possible fraud, but the scope of the audit does not always assure all fraud will be found.

You will not learn from your IPA: whether you are in compliance with all laws and rules; and if the funds spent are all eligible, allowable, and reasonable under 2 CFR Part 200.



Example of audit not completed

An OIG audit conducted in 2013 found that a certified public accountant ended its engagement with a grantee for its 2011 and 2012 financial statement and single audit reports required by HUD. The accountant told OIG auditors that a key issue with the grantee was a lack of supporting documentation for the entries in its QuickBooks accounting system. The grantee constantly revised its accounting figures, payroll allocations, revenues, and expenses. In one submission to the accountant, the expenses exceeded the revenues, and in a later submission, the revenues exceeded the expenses. The grantee's president informed OIG auditors that items had not been charged to the correct grants and that the audits for 2011, 2012, and 2013 needed to be completed. Based on the constant adjustment of accounting transactions, OIG deemed the accounting system data to be unreliable and unauditable. Grantees should ensure that employees have sufficient knowledge of the rules of the respective programs and of proper accounting systems. Grantees should attend HUD training courses and request technical assistance from HUD if the training proves insufficient for proper implementation of HUD programs.

Audit Tips:

- The management letter from the IPA is probably the most informative of the information received. Pay attention to the letter and footnotes that often disclose operational weaknesses or accounts showing previously unknown activity.
- Since the management letter is not a comprehensive evaluation on the internal controls (but rather just a by-product of the audit process), the grantee or subrecipient must decide whether further outside evaluation of the systems and

procedures is warranted based on the audits findings. Subrecipient audit findings should also factor into the grantee's monitoring plan.

- Issues arising from prior year's management letters should be revisited to make sure they have been addressed to the IPA's satisfaction.
- Do not hire the accountant who does the fee accounting to also do the audit. There is a conflict of interest in that situation.
- Whether a grantee has an IPA audit or not, it is still required to maintain accurate records and is subject to additional audits by the HUD OIG or Government Accountability Office at any time.

Summary

Sound financial management helps grantees, the public and HUD ensure that Federal funds are used appropriately for their intended purposes. Grantees and subrecipients must know and adhere to Federal cost principles and other financial directives from OMB. Budget management, accounting and record keeping are essential tools to assure finances are administered properly. Annual audits, as required, provide an important element of grant oversight, and grantees and subrecipients should assure their records are always ready for audit.

If you have questions regarding financial management, contact your local CPD representative.

Serious allegations of fraud must be reported to your local HUD Office of Inspector General or to the HUD OIG hotline at <http://www.hudoig.gov/report-fraud>.

From: user-un@migo01.net
To: [Cownie, Frank](#)
Subject: 2015-16 Medicare and Compliance Updates
Date: Monday, October 19, 2015 10:49:25 AM

Good Morning,

This is the time of the year when CMS becomes much more aggressive towards auditing providers to ensure regulatory and reimbursement compliance. Plus it's time to staying on top of compliance requirements to get the reimbursement you deserve. Missing a single update can cost you, whether it's a fee schedule change, a new ABN form, or an added F2F documentation requirement. We want you to stay on top of CMS updates, while also treading cautiously to avoid compliance pitfalls and OIG target areas, which can be tough, especially when economic worries are already forcing healthcare settings across the country to slide into the red.

In addition to this, OIG's 2014 Report reveal expected recoveries of more than **\$4.9 billion** consisting of nearly **\$834.7 million in audit receivables** and about **\$4.1 billion in investigative receivables**, which include about **\$1.1 billion in non-HHS investigative receivables** from areas such as the States' shares of Medicaid restitution. which means you need to be extra careful to avoid billing errors and stay out of OIG hit list. And with Medicare fee schedule cuts threatening bottom lines, you need a comprehensive resource by your side to answer your reimbursement and documentation questions and to protect yourself from serious scrutiny and unpleasant payback requests.

This is where Medicare Compliance & Reimbursement Insider comes into play. This handbook will help you stay on top of CMS updates and at the same time make sure you get the reimbursement you deserve.

Here are some of the topics and updates we've covered in this special report:

- Understanding **CMS 855 B**
- to ensure compliant reimbursement from Medicare **2015-2016 CMS Billing Updates and Strategies**
- Tune In to Key Changes Listed in **2015 Medicare Physician Fee Schedule**
- Collect Most Accurate Payments for Your Practice
- Don't Fall Victim to this Critical Care Myth
- Boost Your Charge Capture
- Don't Throw Away Thousands of Dollars
- **Advance Beneficiary Notices:** Reduce Risk Of Fraud Or Abuse Allegations
- Tips Help You Avoid Costly Billing Errors In 2015
- E/M Services Aren't Automatically Billable Every Time You See a Patient
- Overlooking These **E/M Tips Could Cost Your Practice \$5000** Each Year
- Interpreting Your **PEPPER Report** Is Much Easier Than You Realize
- Find Your Path To Accurate Reimbursement for SNF Patients
- Don't Fall Victim To Heightened **OIG Scrutiny**
- Stay on the Right Side of Your Next Audit with These 3 Lessons
- Make Fewer Billing Mistakes, Report Your Services Ethically
- **ASCs:** Gear Up to File Cleaner Claims
- Successfully Navigate the Minefield of Specialist Payment Arrangements

- Watch The Clock For **Medicare Facility Observation Patients**
- Your Reimbursement Could Hinge on Outcomes Come 2016
- **HHPPS**: Improve Outcomes or Put Your Reimbursement at Risk
- Think Ahead: Good EHR Could Prevent Big Headaches
- Are You Among the Providers Who Can't Produce Documentation?
- **And much more...**

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Thanks,
Ashley Anderson
Customer Relationship Director

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From: CPD_Announcements
To: [Cownie, Frank](#)
Cc: [Ritter, Dan E.](#); [Johansen, Chris M.](#)
Subject: 4/28 - Joint Message from HUD IG and CPD PDAS to Local Governments
Date: Thursday, April 28, 2016 2:26:14 PM
Attachments: [Joint Message HUD IG and CPD PDAS Local Governments.pdf](#)

Preserving Your HUD Funds for the People and Communities You Serve

Ending homelessness, providing critical affordable housing, revitalizing communities, spurring economic development, supporting essential public services, investing in needed infrastructure – these are just some of your important priorities that are supported with formula and competitive grant funds administered by HUD’s Office of Community Planning and Development (CPD). Overwhelmingly, these programs – CDBG, HOME, ESG and HOPWA – are managed by dedicated public servants, deeply committed to strengthening communities and improving quality of life for low and moderate income residents. But we know our grantees sometimes struggle with the management of specific aspects of these programs.

We are delighted to announce that the Office of the Inspector General and the Office of Community Planning and Development are launching a series of Integrity Bulletins on the following topics, which represent issues that are frequently raised by HUD formula grantees:

1. Procurement and Contracting
2. Sub-recipient Oversight
3. Conflicts of Interest
4. Internal Controls
5. Documentation and Reporting
6. Financial Management

These bulletins will be released over the course of the year and will provide information to help safeguard HUD formula funds and ensure that your jurisdiction gets the full benefit of the funding you have been allocated. We encourage you to read the bulletins and distribute them widely.

We also encourage you to learn more about CPD programs on HUD’s technical assistance website, the HUD Exchange (www.hudexchange.info). There you will find resources like the Explore CDBG suite, the Building HOME training series, and the Introduction to the ESG Program webinar, among many others.

We all know how precious community development financial resources are, and the CPD and OIG partnership is designed to assure that each taxpayer dollar is used to benefit the communities we are all entrusted to serve. If you have any questions about administration of your CPD programs or concerns about fraud, waste, or abuse, please do not hesitate to reach out to your local CPD or OIG office. CPD Field Office Director contact information is available at <https://www.hudexchange.info/manage-a-program/cpd-field-office-directory/>. Contact information for your local Office of Inspector General is available at <https://www.hudoig.gov/about/where-were-located>. To reach the Office of the Principal Deputy Assistant Secretary for Community Planning and Development directly, please call 202-402-3497, or email Alexa.E.Rosenberg@hud.gov.



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410**

April, 2016

A Message from:



**Principal Deputy Assistant Secretary for Community Planning and Development
Harriet Tregoning**



**HUD Inspector General
David A. Montoya**

Preserving Your HUD Funds for the People and Communities You Serve

Ending homelessness, providing critical affordable housing, revitalizing communities, spurring economic development, supporting essential public services, investing in needed infrastructure – these are just some of the important local priorities that are supported with formula and competitive grant funds administered by HUD’s Office of Community Planning and Development (CPD). For the most part, these programs – CDBG, HOME, ESG, and HOPWA – are managed locally by dedicated public servants, deeply committed to strengthening communities and improving quality of life for low and moderate income residents.

Unfortunately, our data show that year in and year out, a significant amount of these essential funds is found to be used improperly, not sufficiently documented, not spent by required deadlines, or otherwise jeopardized. On an annual basis, HUD’s CPD grantees end up losing or having to repay millions of dollars in program funds, rendering these scarce valuable resources unavailable to the communities that rely on them.

Efficient operations and effective accountability mechanisms are essential to ensuring that limited federal community development resources are protected and prudently used for their intended purposes. Our collective ability to maintain or increase federal funding for community development activities is undermined by widespread examples of funds that have not been appropriately used or managed. We are writing to ask for your assistance ensuring that as a HUD grantee, you take every possible measure to guarantee the proper and timely use of HUD program funds.



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410**

Too often, a HUD monitoring review or an Office of the Inspector General's (OIG) audit is the first official look at the management of these programs. Every local government must have the capability to monitor these programs and should be the first line of defense ensuring that program funds are managed appropriately. With recent changes in federal accounting and procurement requirements, the risk of loss of HUD formula funds has never been greater and the attention of elected and appointed officials to the management of these programs has never been more necessary.

To assist in this effort, the Office of the Inspector General and the Office of Community Planning and Development are launching a series of Integrity Bulletins on the following topics, which represent issues HUD formula grantees struggle with most often:

- Procurement and Contracting
- Sub-recipient Oversight
- Conflicts of Interest
- Internal Controls
- Documentation and Reporting
- Financial Management

These bulletins will be released over the course of the year and will provide information to help safeguard HUD formula funds and ensure that your jurisdiction gets the full benefit of the funding you have been allocated. We encourage you to read the bulletins and distribute them widely.

We also encourage you to learn more about CPD programs on HUD's technical assistance website, the [HUD Exchange](#). There you will find resources like the *Explore CDBG* suite, the *Building HOME* training series, and the *Introduction to the ESG Program* webinar, among many others.

We all know how precious community development financial resources are, and the CPD and OIG partnership is designed to assure that each taxpayer dollar is used to benefit the communities we are all entrusted to serve. If you have any questions about administration of your CPD programs or concerns about fraud, waste, or abuse, please do not hesitate to reach out to your local CPD or OIG office. Local contact information is available at www.hud.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Harriet Tregoning", is positioned above the printed name.

Harriet Tregoning
Principal Deputy Assistant Secretary for
Community Planning and Development

A handwritten signature in black ink, appearing to read "David A. Montoya", is positioned above the printed name.

David A. Montoya
HUD Inspector General

From: CPD_Announcements
To: [Cownie, Frank](#)
Cc: [Ritter, Dan E.](#); [Johansen, Chris M.](#)
Subject: 5/23 - Joint Message from HUD IG and CPD PDAS to Local Governments
Date: Monday, May 23, 2016 3:00:32 PM
Attachments: [Procurement Integrity Bulletin CPD.pdf](#)

May 23, 2016

Procurement & Contracting: Five Ground Rules for Grantees and Subrecipients

Navigating federal procurement rules presents challenges for many Community Planning and Development (CPD) program grantees. In some cases, the competitive/noncompetitive procurement thresholds may lack clarity, in other cases the criteria for evaluating proposals may be confusing. In an effort to expand on existing guidance and address factors most commonly identified in monitoring and Office of Inspector General (OIG) audit findings, CPD collaborated with the OIG to develop the attached Integrity Bulletin.

The Bulletin is intended to inform both grantees and subrecipients on procurement and contracting requirements. It organizes procurement guidelines into five basic ground rules that should always be practiced when using CPD program funds—separation of duties, competencies and training, recordkeeping, fair competition, and ethics and conflicts of interest. The Bulletin provides examples of noncompliant procurement practices associated with each of the ground rules and identifies training opportunities for those who want more in-depth information.

The states, local governments and nonprofits that use CPD program funds are encouraged to review the Integrity Bulletin and apply lessons contained therein to current and upcoming procurement activities. We would also like to get your feedback on the usefulness of the bulletin. If you have comments to share please direct them to Alexa Rosenberg at Alexa.E.Rosenberg@hud.gov.

For more information on procurement or other CPD program related issues we encourage you to utilize HUD's Technical Assistance website, the HUD Exchange (www.hudexchange.info).

Thank you for your time and thank you for your work on HUD's CPD programs.

Sincerely,

Harriet Tregoning
Principal Deputy Assistant Secretary for
Community Planning and Development

David A. Montoya
HUD Inspector General



Integrity Bulletin

U.S. Department of Housing and Urban Development
Office of Inspector General

“In government contracting, we can’t afford the luxury of mistakes. You must be aware of what is going on and what you can do to protect both the government and yourself.”

– Federal Acquisition Institute

Procurement & Contracting: Five Ground Rules for Grantees and Subrecipients

Purpose

Goods and services must be procured in an effective manner and in compliance with Federal, State, and local laws. These laws exist to ensure that funds are awarded through fair and open competition and are spent on eligible and reasonably priced goods and services. Although the majority of grantees and subrecipients comply with these rules and regulations, we are issuing this bulletin to assist you in identifying potential weaknesses in procurement and contracting procedures. Weak or nonexistent procurement policies and management oversight can entice some employees to manipulate contracts to their personal benefit and can result in costly, wasteful, or unenforceable contracts. However, the very act of monitoring procurements and contracts has a deterrent effect on fraud and poor management and thereby enhances the integrity of the program.

While the information contained in this bulletin does not supersede previously issued guidance currently in effect, it should serve as a useful tool in highlighting important requirements and establishing self-assessments of your procurement and contracting activities.

Background



Federal grants are covered either by a new common rule at 2 CFR (Code of Federal Regulations) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, or the previous version at 24 CFR Parts 84 and 85 (for grants made before December 14, 2014). Grantees are also required to follow applicable State or local laws on procurement, depending on their location. If there are inconsistencies among Federal, State, or local laws, the strictest of the requirements applies.

Although the administrative procedures concerning procurement may vary, there are several major requirements that should be met consistently. While reviewers must concentrate on administrative compliance, they also should be alert to indications of fraud and abuse. When indications of irregularity are uncovered, additional assessment of the situation may be needed. It is prudent for elected officials and executives to be alert to any controversies or complaints regarding these activities and the staff responsible for them.

Ensure That Five Ground Rules Are in Place

A primary duty of elected officials and executives in regard to procurement and contracts is to ensure that policies and procedures are in place and comply with all Federal, State, and local requirements. Ask any business leader what is the greatest challenge in these times, and the most likely answer will be “to manage costs.” Procurement and contracting are key areas in which grantees can control costs. Generally, elected officials approve the procurement policy, and executives are responsible for executing the policy and ensuring that it is followed. Regardless of whether the executive administers procurement directly, delegates it to other officials or subrecipients, or contracts out the procurement process, the grantee is ultimately responsible. You should ensure that checks and balances are in place to detect and prevent violations of procurement rules and procedures. In other words, internal controls and a quality control system should be in place so you can have assurances that rules are followed. While you must follow all requirements, you will position yourself well for meeting other rules by ensuring that five basics are in place.

1. Maintain Separation of Duties

The most direct way to prevent fraud is to eliminate the opportunity.

The person(s) delegated to do the ordering should be different from the person(s) receiving and accepting the goods and the person(s) paying for the order. When this is not possible due to the limited size of staff or when the process is decentralized, as in the case of an outstationed project manager, additional rules should be used, such as limiting dollar authorizations and periodic reviews by an independent individual. The grantee should ensure that only designated individuals have the authority to make binding contracts. If you have a small staff, you must devise a method for independent oversight. The rule of thumb should be that if an employee touches the money, mail, or goods purchased, he or she should not touch the books.

Example of Inadequate Separation of Duties

- An audit found that all Community Development Block Grant (CDBG)-related mail, including vendor invoices, was opened by a finance director. The director also was responsible for cash receipts and reconciling bank statements. Because this violated the separation of duties principle, the director should have had someone else who didn't have access to the financial records, be responsible for opening and logging in the mail. In addition, bank reconciliations should be done by an employee who is not responsible for cash receipts.

2. Provide Competencies and Training

A best practice for grantees is to have a knowledgeable entity review their procurement policies and procedures to ensure that they meet HUD and Office of Management and Budget requirements. In addition, contracting staff should be sufficiently trained to perform its duties and meet its responsibilities.

Many Federal and State contracting officers have strict training requirements, but these requirements may not always flow down to the local grantee or subrecipient level. Many of the grantee's expenditures go through this process, making it a high-risk area requiring competent and ethical staff that performs at a high level.



For this reason, it is up to the grantee to ensure that a standard is in place and that anyone hired to conduct procurement activities has appropriate training and experience. The grantee should also provide continuing training in procurement and contracting to ensure that its staff keeps up to date on procurement requirements, such as the new 2 CFR Part 200. Training is available from many State agencies, the National Procurement Institute, the Public Contract Institute, or private firms, but it must be tailored to Federal grant requirements.

Example of Poor Policies or Training

- City councilmembers approved a construction contract for \$782,215 for the rehabilitation of 28 residential streets. A month later, the councilmembers approved a change order that increased the contract from \$782,215 to more than \$2.1 million, which allowed the contractor to perform additional construction work on 16 more residential streets. Regulations required that the city make available preaward review procurement documents, such as proposals or invitations for bids, independent cost estimates, etc., when a proposed contract modification changed the scope of a contract or increased the contract amount by more than \$100,000. Although the city obtained approval from councilmembers for the material change order, there was no documentation to show that it performed a cost or price analysis as required by 24 CFR 85.36(f)(1). This condition occurred because the city had policies and procedures that were separate from its implemented program procedures, which did not consider applicable HUD rules and regulations to ensure proper documentation of its program-funded procurement actions. The grantee should have used the HUD-required procurement rules.

3. Insist on Good Record Keeping



Grantees should ensure that policies and procedures are comprehensive regarding the level of documentation to be maintained on procurements and contracts. While outside parties or subrecipients may conduct the procurements, the grantee is responsible for ensuring that all original records are available and readily accessible for audit or other reviews.

While it is not required, you may want to consider requiring that periodic reports on procurement activities be reviewed by management to ensure transparency and integrity in the process. Reviewing these reports may disclose conflicts of interest or other abuses. Reports to consider obtaining are

- **A spend map**, a periodic plan for what is to be bought. Understand what (and how) you and your subrecipient spend.
- **A contracts register** of vendors, contractors, and subcontractors by date and type of procurement (micropurchases, small purchases, requests for proposals, and sole-source and competitive bids), funding source, and amount of the contract, along with a brief description.
- **A Summary of change orders** by contract.
- A report that **cross-checks** vendor addresses and phone numbers with those of employees.
- A report of any **purchases lacking invoices**.

Examples of Poor Record Keeping

- During an audit, a city did not provide complete file documentation for its procurement and expenditure transactions, resulting in many requests for missing documents. After the audit fieldwork ended, the city provided more than 18,000 pages of documentation to support its procurements and expenditures. A

review comparing the work activity logs, provided as support for payments for a drainage cleaning contractor, to the contractor's invoices found that the work activity logs were not complete. The city will need to work with HUD to review the records and determine whether they support the procurements and costs claimed. The grantee should have ensured that it received and maintained all necessary support. In labor hour contracts, the city needed to ensure that it received signed time and attendance reports and that those reports indicated which hours were for which approved activities.

- An audit of a State found that it did not require its contractor to bill by the detailed tasks listed in its \$144 million CDBG Disaster Recovery-funded contract. Since the State allowed the contractor to bill by position and total hours worked, it could not determine what tasks the contractor had completed or whether it had overpaid the contractor for any task. The State should have required the contractor to bill by task.

4. Maximize Competition

Ensuring that procurements are conducted and contracts are awarded in a way that obtains the most competition will serve the agency well. If you encounter any of the issues listed below, you should dig deeper to ensure that procurements are being made properly:



- Use of sole-source contracts,
- Insufficient price or rate quotes from qualified sources,
- Lack of independent cost estimates or cost analyses,
- A failure to rotate vendors on lower priced purchases,
- The use of unreasonably narrow or specific qualification criteria or bid specifications,
- Short timeframes for responding to offers,
- An insufficient number of responsive bidders,
- Overuse of change orders,
- Failure to check government debarment lists,
- Overuse of small purchase contracts,
- Lack of outreach to women and minority business enterprises, and
- An excessive number of small purchase contracts close to the small purchase dollar limit.

Example of Poor Procurement Practices

- An Authority's procurement process for its HOME Investment Partnerships Program had significant problems. The Authority awarded 27 contracts valued at \$1.8 million to 10 contractors during the audit period. The Authority:
 - Accepted faxed bids in the procurement process for four clients. There were two contracts awarded based on a faxed bid. The related payments totaling \$114,014 were unsupported. Regulations at 24 CFR 85.36(d)(2)(ii)(C) state that if sealed bids are used, all bids will be publicly opened at the time and place prescribed in the invitation for bids. The grantee's program manual required sealed bids.

- Executed a contract for services when different sealed bids were submitted on the same day from the same contractor for the same project, which resulted in an unsupported payment of \$8,000. There was no documentation explaining why the bid awarded was greater than the lowest bid submitted. Regulations at 24 CFR 85.36(d)(2)(ii)(D) state that a contract will be awarded to the lowest responsive and responsible bidder.
- Paid contractors before inspection and project completion contrary to the Authority's management plan requirements. The Authority's management plan states that the Authority must ensure that work is inspected before making payment to contractors.
- Did not ensure that the amount of the bid submitted by the contractor equaled the accepted bid amount on the bid summary. The bid form submitted by the contractor listed a bid in both numerical and written form, and the Authority accepted the numerical bid amount. The Authority's bid form states that bid amounts must be stated in both words and figures and that in case of a discrepancy, words will govern.
- Accepted bids for demolition services when the demolition method was not known at the time the bids were received. Since the demolition method was not known, the Authority could not have determined an accurate cost estimate. Regulations at 24 CFR 85.36(f) state that subgrantees must perform a cost or price analysis in connection with every procurement action. Grantees must make independent estimates before receiving bids or proposals. It was determined later that the demolition work was not done on several units, although the grantee paid for the work.

5. Uphold Ethics and Bar Conflicts of Interest

HUD requires that a written code of standards be included in the procurement policy, and many State and local conflict-of-interest laws also have requirements. Ensure that your guiding principles bar those in positions of trust from personally gaining from transactions and that the process is fair to all seeking to do business with the grantee or subrecipients.



A common problem is the lack of understanding of what “appearances of conflicts” entails. Too often, managers believe that indirect or noncash gifts are not considered a conflict of interest. Examples are vendor or contractor donations to employee fund-raising drives, event tickets, meals, or giveaway gifts like a Thanksgiving turkey or iPad drawing given to an employee-affiliated organization. These gifts could be considered potential conflicts of interest so it's best to be wary of accepting anything of value from a contractor. If you are unsure whether it is legal or creates an appearance of a conflict, seek expert advice.

As a grantee, you have an obligation to not only avoid conflicts of interest yourself, but also to be alert and question real or apparent conflicts by any others, including subrecipients. Conflict-of-interest restrictions also extend to immediate family members, business partners, or organizations where they may be employed or seeking employment.

Ethics also entails maintaining integrity through strong financial controls to avoid embezzlement and theft of assets. During fiscal years 2011 to 2015, the Office of Inspector General (OIG) investigated and obtained 239 convictions of grantee staff members or contractors.

Examples of Ethical Violations

- A grantee, through its subrecipient, administered its CDBG revolving Economic Development Loan programs, including a commercial loan program. A commercial loan of \$200,000 was made at a 2 percent interest rate to relocate several manufacturing businesses into one central location. There was a potential conflict of interest as the loan was made to a local for-profit corporation, the president of which was also on the board of directors of the subrecipient that made and administered the loan on behalf of the city. HUD regulations prohibit participation in the administration of a contract if there is a real or apparent conflict of interest. The grantee should have been aware of and monitor for conflicts of interest between a subrecipient and entities that it supported with grant funds.
- Following an OIG investigation, a former CDBG grant administrator was sentenced to 36 months' probation and ordered to pay restitution to HUD in the amount of \$116,064. Over a 4-year period, the defendant received a salary from a city department as the grant administrator and also formed a company and was its executive director. The defendant awarded several CDBG contracts to this company. He collected a salary from the city as a grant administrator and also collected a salary as the executive director of his company, which was paid using CDBG funds.

In Summary – Stay Alert

Most procurement and contracting problems come to light through complaints, protests, and alertness to unusual circumstances. Be sensitive to any findings on the procurement process by your independent public auditor. Also, be vigilant for any controversies or complaints regarding these activities and the staff members responsible for them. You should understand the types of purchases that are not allowed or exceed needs. Remember, even allowable costs can be disallowed if they are unreasonable or not for an eligible or allowed purpose. While there are many schemes and poor practices in the procurement and contracting areas, following the above basics will give you and your agency an advantage in preventing and detecting fraud and avoiding repayment of funds. If you are in doubt about a situation, don't ignore it. Get advice from your counsel, HUD office, or other experts.

**Serious allegations of fraud should be reported to your local
HUD Office of Inspector General or to the HUD OIG hotline at**

<http://www.hudoig.gov/report-fraud>.

From: CPD_Announcements
To: [Cownie, Frank](#)
Cc: [Ritter, Dan E.](#); [Johansen, Chris M.](#)
Subject: 7/28 - Joint Message from HUD IG and CPD to All Grantees
Date: Thursday, July 28, 2016 12:25:07 PM
Attachments: [Conflicts of Interest Integrity Bulletin CPD.pdf](#)

July 28, 2016

A Message from: Principal Deputy Assistant Secretary for Community Planning and Development, Harriet Tregoning and Inspector General, David A. Montoya

7 Keys to Handling Conflicts of Interest

Conflicts of interest arise when officials or staff stand to benefit--either directly themselves or indirectly through business partners or relatives--from the awarding or contracting of grant funds. Grantees are encouraged to avoid conflicts of interest to the extent possible. When conflicts of interest arise, grantees must identify, disclose, and manage them in compliance with applicable rules and regulations. When conflict-of-interest issues are overlooked or hidden, this creates problems for the individuals involved, as well as grantees, subrecipients, or contractors.

This bulletin discusses common types of conflicts of interest, offers best practices for avoiding and managing them, and the potential consequences of not handling them appropriately. It provides seven keys to handling conflicts of interest when using CPD program funds in procurement or non-procurement activities—knowing the requirements; training employees; creating procedures to document compliance; implementing the regulations; knowing the consequences; requesting exceptions; and getting help. The Bulletin provides examples of conflict-of-interest issues in both procurement and non-procurement activities, along with ways in which these conflicts could have been better managed.

The states, local governments and nonprofits that use CPD program funds are encouraged to review this Integrity Bulletin and apply lessons contained herein to current and upcoming procurement and program delivery activities. We would also like to get your feedback on the usefulness of the bulletin. If you have comments to share please direct them to Alexa Rosenberg at Alexa.E.Rosenberg@hud.gov.

For more information on conflicts of interest or other CPD program related issues we encourage you to utilize HUD's Technical Assistance website, the HUD Exchange (www.hudexchange.info).

Thank you for your time and thank you for your work on HUD's CPD programs.

Sincerely,

Harriet Tregoning
Principal Deputy Assistant Secretary for
Community Planning and Development

David A. Montoya
Inspector General



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Identify, disclose, and manage all real and apparent conflicts of interest through elimination, mitigation, or waivers.



1. Know the Requirements

In general, conflicts of interest occur when one's private interest and public duties overlap, resulting in a real or perceived lack of independence or impartiality. Common situations include:

- Elected officials voting on awarding of funds to organizations where a family member is on the staff or where the elected official is on the subrecipient's board;
- Executive directors of subrecipients entering into contracts with companies they are affiliated with through employment of, or ownership by, themselves or their relatives;
- Grantee officials or staff who have relatives who may benefit from a subrecipient's programmatic activities; and
- Failure to notify the U.S. Department of Housing and Urban Development (HUD) about conflicts of interest, or late and or incomplete requests for exceptions.

The existence of a conflict of interest does not necessarily mean that any individual acted improperly or illegally, but it does mean that, unless properly handled and addressed, he or she could end up being in violation of Federal rules. Therefore, all such cases must be identified and resolved by eliminating the conflict or obtaining a written exception.

Two sets of conflict-of-interest rules exist – one for procurement activities and others for non-procurement, sub-granting/program delivery activities.

- A. Procurement Standards:** Regulations at 2 CFR (Code of Federal Regulations) 200.318(c) require non-Federal entities to maintain written standards of conduct

Regulations are in transition between grants issued before December 26, 2014 (when 2 CFR Part 200 went into effect), and those issued later. See the footnote below for more detail.¹

Example of a Procurement Conflict of Interest

- A Neighborhood Stabilization Program (NSP) grantee funded a subrecipient to rehabilitate 28 homes. The subrecipient failed to report a conflict-of-interest situation when it entered into two contracts with a construction company that was 50 percent owned by the NSP subrecipient's executive director. Although the subrecipient stated that it had disclosed all relationships to the grantee in the proposal process, the grantee overlooked HUD's conflict-of-interest requirements and the requirements found in the agreement. Because the grantee approved the proposal and awarded the agreement, the subrecipient believed that there were no conflict-of-interest issues. The grantee should have flagged the conflict of interest situation during its risk assessment of the subrecipient and prohibited the use of the executive director's construction firm.

- B. Non-procurement Standards:** Regulations at 2 CFR 200.112 require HUD to establish conflict-of-interest policies for Federal awards and require non-Federal entities to disclose in writing any potential conflict of interest to HUD or a pass-through entity in accordance with HUD's policy. HUD is finalizing its conflict-of-interest policy, but entities are still expected to use the policies developed under the various Community Planning and Development (CPD) program-specific regulations. In general, all CPD program regulations prohibit grant-assisted activity benefitting relatives of people who work for the grantee or the pass-through entity.

Example of Non-Procurement Conflict of Interest

- A city awarded a Community Housing Development Organization (CHDO) \$215,975 in HOME funds to sell and construct one single-family home. At the time of the award, a city official's daughter was the president of the CHDO. The city official abstained from voting on the basis that there was a relationship with the executive director. However, the city was required to disclose these relationships to HUD and had not done so. The city should have developed and implemented written procedures to ensure compliance with HUD's conflict-of-interest regulations, including disclosure of potential conflict-of-interest situations.



2. Train Employees

Grantees and subrecipients ought to build an organizational culture that is conscious of potential conflicts of interest so that action can be taken to avoid or mitigate conflicts as they arise. Provide conflict-of-interest training for all employees, including those of the organization and

¹ For more detail see Special Directive SD-2015-01, dated February 26, 2015, "Transition to 2 CFR Part 200," Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance. (<http://portal.hud.gov/hudportal/documents/huddoc?id=15-01sdn.pdf>)

the governing authority, the organization's leadership and, as appropriate, the organization's agents. To have the most impact, the organization should have a written policy requiring annual conflict-of-interest training, and legal counsel or other qualified individuals should review the policy with employees (and board members), subrecipient officers, and pass-through entity staff at least annually. Documenting training is a best practice. The organization should:

- Provide training;
- Require that staff annually submit certifications regarding outside businesses, outside employment, and volunteer positions;
- Record a certification of attendance at trainings; and
- Follow up with annual refresher sessions.



3. Create Procedures to Document Compliance

Conflict-of-interest policies and procedures should describe how conflicts will be handled. When a conflict or potential conflict of interest exists, the person with the conflict should advise the board or management committee in writing and seek guidance on how to resolve the conflict. Conflict-of-interest notifications usually include:

- The person's name, position, phone number and address;
- Details of the nature of the conflict of interest, (perceived, apparent, or actual);
- Date of notification; and
- Requested action to address the conflict of interest (recusal, exemption request, etc.).

The notification and subsequent actions should be recorded in minutes of board or management meetings. Record-keeping best practices includes documenting:

- Conflict-of-interest notifications;
- Cases of failure to disclose;
- Disclosure by others (for example colleague or member of the public);
- Reviews or investigations of alleged conflicts;
- Assessment of the matter and how it was considered;
- Action taken or resolution; and
- Annoying or trivial claims.



4. Implement the Regulations

Often people are unaware that their activities are in conflict with the best interests of the organization. A goal should be to raise awareness, encourage disclosure and discussion of issues that may constitute a conflict, and constantly encourage a "culture of candor."

Leadership and culture are important aspects of compliance. Boards or leaders should establish a culture of compliance and honesty and encourage disclosure by establishing a protocol for staff to self-report possible conflicts, raise suspected conflict-of-interest issues, or ask for guidance, without fear of retaliation. Leadership should appoint an individual or office to ensure conflict-of-interest rules are implemented and followed. However, the protocol should not rely solely on

voluntary compliance, but also on procedures to allow grantees and subrecipients to report and have independent checks made to ensure that conflicts do not exist.

Monitoring is a best practice that entails having someone review the names of the principals of businesses that may become subrecipients, contractors or suppliers to determine whether there are apparent or real conflicts of interest with staff or agents of the awarding entity or pass-through entity. Many organizations circulate a questionnaire each year (usually in conjunction with training) to find out whether any board member, officer, or employee has a conflict of interest. Typically, the questionnaire asks them to disclose existing conflicts and reminds them to disclose any that may crop up in the future.

Monitors should also determine whether subrecipients have conflicts of interest in sub-awards and contracts by asking them to disclose the names of their immediate family and business partners and those of the principals of the organizations and contractors with which they transact grant project business.

The primary goal in managing conflicts of interest is to ensure that as decisions are made, they are seen to be made on proper grounds, for legitimate reasons, and without bias or unfairness.



5. Know the Consequences

Violating conflict-of-interest rules can have serious consequences for a grant program. Bad publicity surrounding undisclosed conflicts may seriously undermine the public trust in the program as well as damage personal reputations. Audits and investigations can result in the grantee's having to repay Federal funds, or individuals being fired or prosecuted.

A Conflict of Interest Can Lead to Criminal Actions

In some cases, conflicts of interest can lead to criminal prosecutions. It's not that the conflict of interest itself is a criminal act, but it can lead to other acts, such as deliberately hiding relationships, financial gains or other advantages through false statements, misrepresentations, or filing false documents, which are crimes. With such personal risk at stake, it is easy to see why disclosures of conflicts of interest are so important.

Example of a Prosecution Resulting from a Conflict of Interest

- A former planning commissioner and her ex-boyfriend were convicted on Federal corruption charges. The pair took part in a scheme in which she steered more than \$2 million in contracts and loans to him. She got the agency to award a computer contract to the ex-boyfriend's company. The contract, which started at \$8,900, escalated to about \$1 million over 5 years. The former planning commissioner did not reveal details of her personal relationship with the ex-boyfriend and helped keep his name off the contracts his company received. She knowingly hid the conflict of interest and personally benefited from her actions. As a result, she and her ex-boyfriend were convicted. Sentencing is pending.

If you have knowledge of possible fraud, promptly report it to your local HUD Office of Inspector General (OIG) or online to the OIG hotline on OIG's Web site at <https://www.hudoig.gov/report-fraud>.



6. Request an Exception

HUD may grant an exception to non-procurement conflicts of interest on a case-by-case basis. It is the recipient's responsibility to submit a written request for an exception to its local HUD CPD office. When submitting a request, the recipient must provide the following documentation as threshold requirements for consideration:

- A public disclosure of the conflict (include how the disclosure was made); and
- An opinion of the recipient's attorney that the exception does not violate State or local law.

HUD determines whether threshold requirements are met and whether the circumstances fall within exception criteria permitted by the regulations. Remember that submitting a request does not authorize a recipient to engage in any activity or enter into any contract that constitutes a conflict. The recipient may proceed only after receiving the approval in writing from HUD.



7. Get Help

Conflict-of-interest requirements are often nuanced and must be reviewed case by case. HUD provides assistance when conflict-of-interest situations arise or are in question. You can get help from your local CPD office when such issues arise.

*Bottom line:
Conflicts of interest are situations not allegations...
BUT they must be disclosed and managed properly.*

From: CPD_Announcements
To: [Cownie, Frank](#)
Cc: [Ritter, Dan E.](#); [Johansen, Chris M.](#)
Subject: 9/12- Joint Message from HUD IG and CPD to All Grantees
Date: Monday, September 12, 2016 1:30:01 PM
Attachments: [Subrecipient Oversight and Monitoring Integrity Bulletin CPD.pdf](#)

September 12, 2016

A Message from: Principal Deputy Assistant Secretary for Community Planning and Development, Harriet Tregoning and Inspector General, David A. Montoya

Subrecipient Oversight and Monitoring – A Roadmap for Improved Results

The attached Integrity Bulletin highlights the importance of effective subrecipient management and oversight by grantees receiving funds from the U.S. Department of Housing and Urban Development's (HUD) Office of Community Planning and Development (CPD). On December 26, 2013, the Office of Management and Budget issued revised guidance under 2 CFR (Code of Federal Regulations) Part 200. The result was consolidation of and changes to government-wide uniform administrative requirements, cost principles, and audit requirements for Federal awards. These changes emphasized a grantee's responsibility to manage and monitor its subrecipients, including monitoring a subrecipient's performance and compliance with applicable laws and regulations, as well as taking appropriate action when performance and compliance issues arise.

The American public wants accountability from government and assurance that Federal funds are spent effectively to accomplish their intended purpose. For CPD programs, grantee oversight of subrecipients is a critical place "where the rubber meets the road." It is where results are attained and funds are safeguarded. Under 2 CFR Part 200, grantee monitoring of subrecipient activities is required to ensure that (1) subawards are used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward, and (2) subaward performance goals are achieved. When no monitoring or insufficient monitoring occurs, the grantee may risk losing HUD funding. Regulations at 2 CFR Part 200 require grantees to establish and maintain effective internal controls for themselves and ensure that their subrecipients do the same. One way a grantee can develop internal controls is by designing an effective monitoring process.

This Bulletin provides key tips for improving effective oversight of subrecipients—building monitoring into a work plan; assessing subrecipients; creating a monitoring strategy; documenting reviews and issuing a monitoring report; and following up with subrecipients. The Bulletin also provides examples of subrecipient management issues, along with ways in which these issues could have been better managed.

The states, local governments and nonprofits that use CPD program funds are encouraged to review this Integrity Bulletin and apply lessons contained herein to current and upcoming procurement and program delivery activities. We would also like to get your feedback on the usefulness of the bulletin. If you have comments to share please direct them to Alexa Rosenberg at Alexa.E.Rosenberg@hud.gov.

For more information on conflicts of interest or other CPD program related issues we encourage you to utilize HUD's Technical Assistance website, the HUD Exchange (www.hudexchange.info).

Thank you for your time and thank you for your work on HUD's CPD programs.

Sincerely,

Harriet Tregoning
Principal Deputy Assistant Secretary for
Community Planning and Development

David A. Montoya
Inspector General



Integrity Bulletin

U.S. Department of Housing and Urban Development
Office of Inspector General

Summer 2016

Subrecipient Oversight and Monitoring – A Roadmap for Improved Results

This bulletin highlights the importance of effective subrecipient management and oversight by grantees receiving funds from the U.S. Department of Housing and Urban Development's (HUD) Office of Community Planning and Development (CPD). On December 26, 2013, the Office of Management and Budget issued revised guidance under 2 CFR (Code of Federal Regulations) Part 200. The result was consolidation of and changes to government-wide uniform administrative requirements, cost principles, and audit requirements for Federal awards. These changes emphasized a grantee's responsibility to manage and monitor its subrecipients, including monitoring a subrecipient's performance and compliance with applicable laws and regulations, as well as taking appropriate action when performance and compliance issues arise. This bulletin provides key tips for improving effective oversight of subrecipients.

The Importance of Monitoring

The American public wants accountability from government and assurance that Federal funds are spent effectively to accomplish their intended purpose. For CPD programs, grantee oversight of subrecipients is a critical place “where the rubber meets the road.” It is where

2 CFR 200.93 defines a subrecipient as a non-federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program.

results are attained and funds are safeguarded. Under 2 CFR Part 200, grantee monitoring of subrecipient activities is required to ensure that (1) subawards are used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward, and (2) subaward performance goals are achieved. When no monitoring or insufficient monitoring occurs, the grantee may risk losing HUD funding. Regulations at 2 CFR Part 200 require grantees to establish and maintain effective internal controls for themselves and ensure that their subrecipients do the same. One way a grantee can develop internal controls is by designing an effective monitoring process.

Step 1 – Build Monitoring Into Your Work Plan

Effective subrecipient oversight includes building a monitoring strategy into a grantee's annual work plan. The purpose of a monitoring strategy is to define the scope and focus of a grantee's monitoring efforts, including establishing a framework for determining the appropriate level of monitoring for subrecipients based on the resources available. A grantee's work plan should include time to conduct a risk analysis on each subrecipient as well as where and when the grantee will apply staff and travel resources for monitoring, training, or technical assistance of its subrecipients.

Step 2 – Assess Your Subrecipients

The new rules under 2 CFR 200.331(b) require that grantees assess their subrecipients' capacity to be successful. This is done by annually conducting a risk assessment on each subrecipient. A risk assessment provides the information needed to prioritize your administrative resources to subrecipients that pose the greatest risk to the integrity of CPD programs. This process includes identifying the subrecipients to be monitored (either onsite or remotely), the program areas to be covered, and the depth of the monitoring review. The selection process should result in identifying those subrecipients and activities that represent the greatest vulnerability to fraud, waste, mismanagement, or lack of capacity.

Tip: A key first step is to verify that the subrecipient is not on the suspension and debarment list before making a subaward. This step is often missed.

There are several resources (listed at the end of this document) available to assist in developing a risk assessment. In determining which format is best for your organization, make sure the following factors are covered:

- | | |
|--|--|
| 1. What is their prior experience? | 6. Did prior monitoring identify problems? |
| 2. Were prior audits conducted? | 7. Were past awards large or complex? |
| 3. Were prior audit findings resolved? | 8. Is the funded activity prone to problems? |
| 4. Does the subrecipient have the capability to comply with Federal rules? | 9. Does the award present potential conflicts of interest? |
| 5. Have financial systems changed? | 10. Has there been turnover of key personnel? |

When conducting a risk assessment, use all information available, including news items or citizen complaints, to identify problem areas. Some activities have higher levels of risk than others and warrant additional attention. Activities that are riskier than others include rehabilitation projects involving lump-sum drawdowns; economic development activities that assist for-profit businesses; assistance to small or newly formed nonprofits that may struggle with implementing internal controls; and subrecipients not previously monitored, especially when they lack previous CPD program experience.

Be sure to document your risk assessments and show how they affected your risk plan and monitoring schedule. After completing this analysis for each subrecipient, compile a written monitoring schedule, identifying which grantees will be monitored, the method of monitoring (onsite or remote), programs and areas to be monitored, the type of monitoring (in-depth or limited), areas of technical assistance and training needed, resources needed, and projected timeframes. If adjustments are required in the middle of the program year, be sure to document those changes as well.

Step 3 – Create Your Monitoring Strategy

Keep notes on what factors contributed to the selection of each subrecipient as you go through the 10 questions above and additional factors you add to your own checklist or spreadsheet. A best practice is to rate recipients by a high-, medium-, and low-risk designation for each area reviewed and then give an overall rating. Once you have the ratings for all subrecipients, you can determine how best to monitor them and provide needed technical assistance and training. Your monitoring strategy should include a schedule for the frequency and types of monitoring (desk review or onsite) based on your resources, subrecipient risks, and number of subrecipients and distance from them. A schedule should also be written and approved by managers that specifies how each subrecipient will be monitored, when, and by whom on the staff. Any adjustments to the risk rating or monitoring schedule should be noted. Office of Inspector General (OIG) audits frequently find that grantees fail to conduct onsite monitoring visits or follow the schedules they have set. Be sure to commit the resources needed to accomplish monitoring as planned.

Develop a checklist for your lower risk subrecipients that can be used in a desk review and create individual onsite checklists for the higher risk subrecipients based on the risks identified in their assessments. At the end of this bulletin, several resources are listed that contain sample checklists for various CPD programs and compliance requirements. As a practical matter, you cannot complete all checklists for all subrecipients, which is why the results of the assessments should be used to tailor your monitoring approach. Choose the checklists that would be most useful in covering the weaknesses identified. You may also choose which questions on a particular checklist to use if some questions don't apply or if you have reason to believe the subrecipient will perform adequately in the areas covered by the questions. A best practice is to put a note next to the questions on why you are omitting them.

A. Conduct Remote Monitoring

Remote monitoring can be an appropriate tool for monitoring lower risk subrecipients. This practice, also known as a desk review, is a good way for grantees and subrecipients to share information on program updates, changes to policies, and other information that impacts the activity. A good technique is for the grantee to ask narrative, open-ended questions about how the activity is going and whether the subrecipient is encountering any obstacles or difficulties. The focus of such a review should be on determining whether major operational changes have occurred since the last review. In addition to the desk review of submitted reports, conduct telephone interviews and determine whether the initial risk assessment score is correct or additional monitoring is needed. Note that for CPD programs, guidance for HUD staff conducting monitoring, including remote monitoring, is found in the CPD Monitoring Handbook, which grantees may also refer to in designing their monitoring checklists and procedures.

B. Conduct a Site Review

An onsite review should be conducted for subrecipients that score higher on the risk assessment or have not had a site visit in some time (2 CFR 200.331(d) and (e)). Make sure that your staff has updated checklists (see note above) and understands them in advance. A best practice is to develop a customized comprehensive checklist before the site visit based on factors identified during the risk assessment. This practice will allow staff to focus on the most important and riskiest areas to review. Encourage staff to ask questions and not have the review become a mechanical series of checkoffs. One way to avoid this problem is to build into the checklist an area to take notes, attach copies (or

photos) of what was examined, and document the resulting analysis. Another person analyzing the checklist should be able to determine what was reviewed and how it supports the determinations made.

Example of Insufficient Monitoring

City officials did not perform adequate onsite monitoring of all of a city's Community Development Block Grant (CDBG) subrecipients and did not have adequate procedures in place to effectively track the status of subrecipient monitoring and any related findings. While the city's 2013 and 2014 annual action plans stated that the city would monitor each subrecipient receiving Federal funds and conduct onsite visits to each subrecipient annually, the city's records showed that it did not adequately monitor 19 of its 41 subrecipients. For example, 13 of the 35 subrecipients were not included on the city's monitoring status tracking documents, and city officials informed auditors that the city had not monitored 6 of its subrecipients during the past few program years.

Step 4 – Document the Site Review and Issue a Monitoring Report

A. Documentation

Documentation is key to a monitoring review, demonstrating whether adequate subrecipient oversight is provided. While on site, keep notes about the items reviewed, activities physically inspected, and items unsupported by receipts or ineligible expenditures. Make copies of documentation that supports the review and any findings. Organize the files for easy retrieval. (Reference U.S. Government Accountability Office (GAO) Green Book, OV4.08, for additional guidance.)

B. Reporting

Once an onsite monitoring review has been completed, grantees should provide a timely written report to the subrecipient (2 CFR 200.328(d)). The report should summarize the review, document performance, and identify issues. It should identify delays or adverse conditions that will materially impair the subrecipient's ability to meet the objective of the Federal award. These shortcomings must be tied to specific program requirements to be sustainable if questioned by the subrecipient. To the extent necessary, the report should include any corrective actions the subrecipient must take as well as the required deadlines for the subrecipient's response and completion of the corrective actions.

Example of Insufficient Documentation

A State onsite monitoring review of a regional commission (subrecipient) was not adequately supported and a later audit of the State could not find any evidence that the State reviewed the commission's documentation of grant expenditures. The State awarded CDBG Disaster Recovery funding to this subrecipient to administer its buyout program. The State did not maintain documentation to support the details of the review, including checklists, notes, write-ups, or other documentation supporting its monitoring work or activities. The State should have discussed documentation requirements with the subrecipient at the time of the award or caught the problem in onsite reviews. Ultimately, with no documentation by the commission, HUD could not confirm that all procedures were followed and that costs were eligible.

Step 5 - Follow up with Subrecipients

A. Corrective Actions

After issuing a monitoring report, grantees must follow up with the subrecipient until all corrective actions are completed. Corrective action plans should include:

1. A description of each finding and recommendation.
2. Specific steps to be taken to implement the recommendation.
3. A timetable for performance of each corrective action.
4. A description of future monitoring to be performed to ensure implementation.

If subrecipients fail to correct problems, you should consider what sanctions are appropriate as listed in 2 CFR 200.338 to .342. The purpose of monitoring is to ensure that the results are used to achieve compliance and performance expectations. Enforcing regulatory sanctions helps ensure that appropriate actions are taken to protect taxpayers and the program as a whole. If audited by OIG or GAO, you, the grantee, could be left footing the bill for uncorrected problems.

Example of Insufficient Follow-up

There was no evidence that a State maintained documentation to confirm how findings from an onsite monitoring review of a subrecipient were resolved. The State requested a response from the subrecipient on how these findings were resolved but received no reply. There was no evidence that the State followed up to ensure how or whether the deficiencies noted were corrected or took action to require the subrecipient to do so. The State should have maintained a tickler file and pursued further efforts to obtain corrective action after the target date passed.

Summary

Subrecipients play a significant role in the effective implementation of many programs administered by CPD. To ensure that Federal funds awarded achieve their intended purposes, it is important for grantees to competently oversee the process from the award stage through closeout. Establishing comprehensive policies and procedures that incorporate the provisions of 2 CFR Part 200 as well as program-specific requirements is one of the keys to that oversight process. The second key is a strong and effective monitoring method that checks for compliance, rapidly addresses performance shortcomings, and provides a basis for compliance actions when warranted. Both OIG and CPD staff members are available to assist grantees in undertaking these important efforts, and we urge grantees to seek advice and guidance that will enhance subrecipients' use of Federal funds.

Resources Available

- Managing CDBG: A Guidebook for Grantees on Subrecipient Oversight: https://portal.hud.gov/hudportal/documents/huddoc?id=DOC_17086.pdf
- Playing by the Rules: A Handbook for CDBG Subrecipients on Administrative Systems: <https://www.hudexchange.info/resource/687/playing-by-the-rules-a-handbook-for-cdbg-subrecipients-on-administrative-systems/>
- CPD's Monitoring Handbook: [6509.2, REV-6, CHG-2](#)
- Suspension and Debarment listing: (http://portal.hud.gov/hudportal/HUD?src=/program_offices/enforcement/susdebar)

New rules at 2 CFR 200.113 require you to report if you have knowledge of possible fraud. Promptly report it to the HUD Office of Inspector General at <https://www.hudoig.gov/report-fraud%20>.

From: Jeb Brugmann
To: ["Valerie Brown"](#); [Pam O'Connor](#); [Cownie, Frank](#); ["Pegeen Hanrahan"](#); [Harvey Ruvin](#); ["Michael Schmitz"](#)
Subject: Amended ByLaws (2015)
Date: Thursday, November 12, 2015 6:18:35 PM
Attachments: [ICLEI USA Bylaws 2015-clean-12nov15.doc](#)
[ICLEI USA Bylaws 2015-with amendments for approval- 12nov15.doc](#)

ICLEI U.S.A. By-Laws

adopted August 8, 2012 with proposed amendments of October 5, 2015 in track editing

BYLAWS OF

ICLEI - LOCAL GOVERNMENTS FOR SUSTAINABILITY U.S.A., INC.

ARTICLE I

NAME

- 1.1 Name.** The name of this organization shall be ICLEI - Local Governments for Sustainability U.S.A., Inc., hereinafter referred to as ICLEI U.S.A. or "the Corporation."

ARTICLE II

PURPOSES AND GOALS

- 2.1 Purposes.** The purpose and goals of ICLEI U.S.A. are to work with local governments as well as state and federal governments and other appropriate organizations, as follows:

1. To build and serve a nationwide alliance of local governments, participating in the ICLEI worldwide association, to achieve measurable progress towards more economically, socially, and environmentally sustainable forms of development and management.
2. To provide a legal entity for the operations of the ICLEI U.S.A. operations, an affiliated country office of ICLEI - Local Governments for Sustainability (ICLEI);
3. To accept and implement the ICLEI Charter and Strategic Plan as approved by ICLEI's Council;
4. To act as agent for and safeguard the name of "ICLEI - Local Governments for Sustainability", the name "ICLEI", its logo, and its program in the United States of America, as well as those field offices funded and/or managed by ICLEI U.S.A., by accepting the revocable, non-

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As amended in-principle by the ICLEI U.S.A. Board of Directors on August 8, 2012

exclusive right to use these as long as the agent adheres to principles and policies regarding the management of ICLEI Corporations as established by the ICLEI Board, notwithstanding the obligation to comply with the laws of the United States of America and the policies and directives of the ICLEI U.S.A. Board of Directors;

5. To support the ICLEI world association to build an active and committed membership of local spheres of government (local and regional governments and authorities) as well as international, regional, national, and sub-national local government associations by engaging and providing support to ICLEI Members in the United States; and
6. To:
 - a. Mobilize and provide support to local-level initiatives that address specific priority problems of local and global significance;
 - b. Help develop and strengthen local capacity and expertise;
 - c. Support networking among and exchange of experiences between local governments, especially between developing and industrialized countries;
 - d. Work with groups of local governments and partner organizations in order to research, develop, pilot, and implement local initiatives for sustainability;
 - e. Function as a clearinghouse for information, and as a training center, on local sustainable development and environmental policies and programs;
 - f. Provide technical support services and consultancy to aid the implementation of local sustainable development and environmental policies and programs;
 - g. Evaluate and report on the impacts of local actions;
 - h. Work and partner with private corporations, investors and research institutes to develop and deliver technologies, tools, and services that will aid the work of local governments in achieving the ICLEI mission;

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- i. Advance the role of local government as a necessary innovator and implementer of environmental policy and of resilient and ecologically and socially sustainable forms of development;
- j. Promote meaningful policy making authority for, and adequate resourcing of, local governments; and
- k. Raise and dispense of funds to fulfill the purposes of the Corporation.

ARTICLE III

OFFICES

- 3.1 Principal Office.** The principal office shall be at 414 13th Street, Suite 400, Oakland, California 94612 U.S.A.
- 3.2 Other Offices.** The Corporation may also have offices at such other place or places within or without the Commonwealth of Massachusetts as the Board of Directors may from time to time determine or as the activities of the Corporation may require.

ARTICLE IV

ANNUAL MEETING

- 4.1 Annual Meeting.** An Annual Meeting of the Board of Directors shall be held for the purpose of electing Directors and for the transaction of such other business as may be brought before the meeting by the Directors within the notice requirement specified in 5.2.
- 4.2 Notice of Meetings.** Written notice stating the place, day and hour of the Annual Meeting shall be delivered either personally, by mail, by facsimile, or by e-mail to each member of the Board and each ICLEI Member in the United States not less than thirty(30) days before the date of such meeting. The business to be transacted by the Board at the Annual Meeting shall be stated in the notice.

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As amended in-principle by the ICLEI U.S.A. Board of Directors on August 8, 2012

4.3 Reflecting their membership in good standing with ICLEI, ICLEI Members in the United States will be invited to:

1. Recommend persons to be considered as candidates for appointment to the Board of Directors of ICLEI U.S.A.
2. Participate in an annual evaluation of ICLEI U.S.A.'s organizational performance, through a statistically valid survey or other representative mechanism, through which they can collectively express their level of satisfaction with the organization's programs, services, staff and Board leadership.

ARTICLE V

BOARD OF DIRECTORS

5.1 Composition of the Board of Directors. ICLEI U.S.A. shall have a Board of Directors (hereinafter referred to as "the Board") consisting of at least five (5) and no more than nine (9) Voting Directors, and the total number of Voting Directors shall be an odd number. The Executive Director shall automatically sit as a non-voting Director on the Board. Each Voting Director of the Board shall serve for a term of two (2) years, conditional on remaining qualified to serve as a Director as specified in Section 5.2. Qualified candidates shall be eligible for re-election.

5.2 Board Membership Qualifications. Voting Directors of the Board shall have the following qualifications:

1. At least one (1) Voting Director shall be the Executive Director of ICLEI U.S.A.
2. At least three (3) Voting Directors shall represent ICLEI Member local governments within the United States of America.
3. The qualifications of additional Directors shall be established by vote of a majority of the Board of

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As amended in-principle by the ICLEI U.S.A. Board of Directors on August 8, 2012

Directors, but such other members shall not exceed more than one half of the Board membership.

5.3 Nominations to the Board. Each year the Chair of the Board shall invite the Board members and the Executive Director of ICLEI U.S.A. to make nominations of qualified persons to fill Board vacancies. The nominations shall be reviewed by a nominations committee consisting of the Board Officers and the Executive Director, on which basis candidates for Board elections will be selected from the nominations.

5.4 Election of the Board. In the election of the Directors from the list of candidates decided by the nominations committee, each sitting Director shall have a single vote to cast for any one individual Board candidate. The candidates receiving the largest number of votes, up to the number of openings on the Board, shall be deemed elected. In the case of a tie vote, the Board shall resolve the tie by a subsequent round of balloting excluding elected candidates. Elected Directors shall assume their responsibilities immediately upon the conclusion of all balloting.

5.5 Meetings of the Board. The Board shall meet at such time and place and in such format as designated by the Board, but shall meet in person at least one (1) time per year, as specified in Article IV of these Bylaws, although the Board shall have the authority to waive the in-person requirement on the sole basis of fiscal considerations. Notwithstanding the above requirement for an annual in-person meeting, the Board shall meet at least once quarterly, in each instance prior to the completion of any quarterly financial statements or filings. Meetings may be held either in person or via teleconference. The Board may vote on any motion that is made at a meeting in the form of a written ballot distributed either by mail, courier or email.

1. Special meetings of the Board may be held at such times and places as determined by the Chair, the Chair, the Executive Director, or any two (2) members of the Board upon written petition to the Secretary of the Corporation at the Corporation's offices.

5.6 Notice of Meetings. Written notice stating the place, day, and hour of any meeting of the Board shall be

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As amended in-principle by the ICLEI U.S.A. Board of Directors on August 8, 2012

delivered either personally, by mail, by facsimile, or by e-mail to each Director not less than five (5) working days nor more than thirty (30) days before the meeting date, by or at the direction of the Chair, the Secretary, or the Officers or Directors calling the meeting. The purpose(s) for which the meeting is called shall be stated in the notice.

5.7 Quorum and Voting Procedures. A majority of the Directors shall constitute a quorum for voting purposes. When a quorum is present, the vote of the majority of the Directors shall decide any question brought before such a meeting except where a larger vote is required by law or these Bylaws.

1. To vote, Directors must participate in a meeting--in person or via teleconference--or may designate, in writing, a representative who may substitute for her or him and cast her/his vote at the meeting. Notice of proxy must be received by the Secretary no less than forty-eight (48) hours prior to the meeting.
2. Any action that may be taken at a meeting of the Board may be taken without a meeting if two-thirds (2/3) of the Directors consent to the action in writing, and the written consents are filed with the records of the meetings of the Board. Such consents shall be considered a vote at a meeting. This form of meeting by written or facsimile ballot shall require not less than forty-eight (48) hours written notice, as defined in this Article and such notice shall include all matters to be decided by the Board in this manner.
3. Each Director shall have one (1) vote unless otherwise authorized by the Board.

5.8 Powers and Duties of the Board. The Board shall have the following powers and duties:

- a. To consider and facilitate the environmental and related public policy directions for ICLEI U.S.A. in accordance with the purposes of these Bylaws, and to direct the Executive Director to establish and maintain operations necessary to carry out these purposes;

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As amended in-principle by the ICLEI U.S.A. Board of Directors on August 8, 2012

- b. To oversee and assure compliance of all programs and financial reporting required by funding sources and state, local and federal agencies;
- c. To establish committees as the need may arise which committees shall exist at the pleasure of the Board and shall have only the powers specifically granted by the Board;
- d. To establish personnel policies for hiring, compensation, performance evaluation at least annually (or as otherwise required), and dismissal of the Executive Director;
- e. Overseeing the operations of ICLEI U.S.A. and the work of the Executive Director and other management staff to develop the ICLEI U.S.A. annual work plan and to design and establish ICLEI U.S.A.'s major programs. Approving and amending the ICLEI U.S.A. annual work plan as necessary.
- f. Assisting the Executive Director and other management staff to secure general and program-specific funds for ICLEI U.S.A.'s operations and major programs.
- g. Establishing standards and processes for budgeting and budget submission, including the periodic review of budget performance against the budget approved by the Board. Approving and amending the annual budget.
- h. Assuring compliance of all programs and financial reporting with the requirements of government agencies and funding sources, including the annual audit, Director compensation and Sarbanes-Oxley Act compliance.
- i. Overseeing the review of the fulfillment of the legal obligations of the organization, including review of contracts involving the organization's intellectual property or with a valuation of over \$500,000 prior to their execution, with the aim of ensuring that the Board is fully aware of legal obligations that the organization may assume.
- j. Establishing and periodically reviewing the affiliation agreement between ICLEI-U.S.A. and ICLEI World Secretariat, and the fulfillment of the obligations associated with that agreement.
- k. Overseeing other partnerships between ICLEI-U.S.A. and other organizations and corporations in pursuit of ICLEI-U.S.A.'s purposes and goals.

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As amended in-principle by the ICLEI U.S.A. Board of Directors on August 8, 2012

1. and exercising all other powers of the Corporation as conferred by law or by these Bylaws.

5.9 Other Committees of the Board. The Board may establish other working or advisory committees as deemed appropriate to perform the business of the Board or to otherwise further the goals of ICLEI U.S.A. Such committees shall serve at the call of the Board. Such committees shall be deemed established upon the majority approval by the Board of terms of reference for the committee. Committee members shall serve solely at the pleasure of the Board.

5.10 Vacancies, Resignations, and Removals. Any Director may resign by giving written notice to the Chair, the Chair, or the Secretary. Resignation or removal shall be effective immediately upon acceptance of the action by the Board. Any Director may be removed by a vote of two-thirds (2/3) of the remaining Directors, after written notice of the removal has been provided to the Director subject to removal stating the specific reason(s) for removal.

In the case of a resignation or vacancy, the Board and Executive Director may recommend a successor who may be approved by a majority of the remaining Directors for the remaining unexpired term of said Director.

ARTICLE VI

OFFICERS

6.1 Election of Officers. The Officers of the Corporation shall be chosen by the Board from the current Directors and shall include a Chair, a Vice Chair, a Treasurer, and a Secretary. These Officers shall be chosen by a majority vote of the Board and shall serve for a renewable term of two years, concurrent with that part of their term as a Director, or until a successor has been elected. Officers may succeed themselves. The Executive Director of ICLEI U.S.A.

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As amended in-principle by the ICLEI U.S.A. Board of Directors on August 8, 2012

shall automatically hold the office of Secretary of the Board as a non-voting Director.

6.2 Powers and Duties. Each Officer shall have such powers as are commonly incident to her/his office and such other powers as the Board may from time to time designate or constrain.

6.3 Vacancies, Resignations and Removals. Any vacancy among the Officers of ICLEI U.S.A. may be filled by the Board. Officers elected to fill any vacancy shall hold office until the next Annual Meeting of the Board, or until a successor has been otherwise elected.

Any Officer may resign by serving written notice to the Chair or Chair.

Any Officer may be removed from office by a vote or two-thirds (2/3) majority of the Board. An Officer may be removed only after reasonable notice and opportunity to be heard before the Board proposing to remove her or him.

6.4 Chair of the Board. The Chair of the Board shall preside at the meetings of the Board and shall be responsible to ensure the annual performance review of the Executive Director.

6.5 Vice Chair of the Board. The Vice Chair shall assume the duties of the Chair in the absence of the Chair, and shall receive all reports from the Executive Director to the Chair.

6.6 Treasurer of the Corporation. The Treasurer shall have such usual powers and duties customarily belonging to the office of Treasurer to have general oversight of the Corporation's financial affairs, under the direction of the Board. The Treasurer shall report, or cause to be reported, the financial condition of ICLEI U.S.A. to the Board at the quarterly board meetings, and at such other times as the Board may request. The Chair shall assume the responsibilities of the Treasurer during his or her absence from meetings of the Board.

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- 6.7 Secretary.** The Secretary shall inform the members of the Board of the time and place of each Board meeting. The Secretary shall keep, or cause to be kept, a true record of all decisions and actions of the Board and all meetings of the Board and the Board committees of ICLEI U.S.A., including the Annual Meeting, and verify the official status of meetings, decisions, and actions with reference to the terms of the Bylaws.

ARTICLE VII

AMENDMENTS

- 7.1 Amendments.** These Bylaws may be amended by the affirmative vote of two-thirds of the members of the Board of Directors present and voting at any meeting of the Board, provided that notice of the substance of the proposed amendment is given in the call for the meeting. Such notice must be given at least fourteen (14) days prior to the meeting.

ARTICLE VIII

CHECKS, CONTRACTS AND OTHER INSTRUMENTS

- 8.1 Checks.** All checks drawn on bank accounts of the Corporation shall be signed on its behalf by the Chair or the Vice Chair or Treasurer of the Corporation or by such Officer, agent, or employee or staff person, as the Board may designate.
- 8.2 Contracts and other Instruments.** The Executive Director shall have the general authority of the Corporation to enter into any contract or execute under corporate seal and deliver any deed, note, or other instrument up to a value of \$100,000, and such authority may be general or confined to specific instances. The Board may also authorize any other Officer in the name or on behalf of ICLEI U.S.A. to enter into any contract or execute under corporate seal and deliver any deed, note, or other instrument, and such authority may be general or confined to specific instances. Unless so authorized, no Officer shall have the power or authority to bind by any such

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contract or instrument to render it financially liable for any purpose or for any amount.

ARTICLE IX

CONFLICT OF INTEREST

9.1 Conflict of Interest. ICLEI U.S.A. may enter into a contract or other transaction with any Director or Officer of ICLEI U.S.A. or any corporation, firm, or association of which that individual or organization may be a director, officer, stockholder, or be a party to or have an interest in, pecuniary or otherwise, provided that such action is in compliance with federal and state laws governing the Corporation and that the nature and extent of that interest was disclosed to, or actually known by, the entire Board before acting on such contract or transaction, and provided that no fraud was present.

Any director, officer, shareholder, or member of any corporation, firm, or association with which ICLEI U.S.A. proposes to contract or transact any business, or who has an interest, pecuniary or otherwise, in any such contract or transactions, may not participate in the vote to authorize any such contract or transaction; except in the case of any contract or transaction between ICLEI U.S.A. and any other corporation controlling, controlled by, or under common control with ICLEI U.S.A.

ARTICLE X

INDEMNIFICATION OF DIRECTORS AND OFFICERS

10.1 Indemnification of Directors. ICLEI U.S.A. shall indemnify, hold harmless and, defend any and all persons who serve as Directors and Officers against all liabilities and any expenses arising therefrom, including counsel fees, reasonably incurred by or imposed upon such Directors in connection with any legal proceeding in which they may become involved, by reason of their having acted on behalf of ICLEI U.S.A. in any activity authorized by ICLEI U.S.A. Such indemnification shall include payment by ICLEI U.S.A.

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of expenses incurred in defending a civil or criminal action or proceeding, upon receipt of an understanding by the person indemnified to repay such payment if he or she shall be adjudicated not to have acted in good faith in the reasonable belief that her/his action was in the best interest of ICLEI U.S.A. The terms "Directors" and "Officers" as used in this Article shall include the heirs, executors, and administrators of the estates of such Directors and Officers. The foregoing indemnification shall be in addition to, and not exclusive of, all other rights to which such Directors and Officers may be entitled.

Indemnification of the Executive Director and of other employees or agents of ICLEI U.S.A. may be provided to the extent authorized by the Board, subject to the same limitation with respect to good faith as is herein imposed on the indemnification of the Directors and Officers.

ARTICLE XI

Executive Director

11.1 Executive Director. An Executive Director shall be appointed by the Board upon nomination by a selection committee of the full Board. The Executive Director shall be responsible for carrying out the policies and direction establish by the Board.

The Executive Director, or her/his designee, shall have full authority over the day-to-day operations of ICLEI U.S.A. including hiring, firing, supervision, and the organization of staff; preparation of the annual budget and management of financial affairs; approval of operating expenses and such agreements, contractual or otherwise, required to carry out the policies and decisions of the Board and necessary for the day-to-day operations of the Corporation; establishment and supervision of internal administrative procedures; establishment and management of partnerships; legal compliance; and public representation of the organization, in addition to any other duties or powers customarily vested in an Executive Director or which the Board may otherwise

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delegate or constrain. The Executive Director shall report on the Corporation's affairs to the Chair and Vice Chair, and at each regularly scheduled Board meeting.

The Executive Director shall be supervised by the Chair with regard to legal, financial, and personnel matters. The performance of the Executive Director shall be evaluated annually by the Board. All other ICLEI U.S.A. staff shall be under the ultimate supervision of the Executive Director.

- 11.2 Removal and Resignation.** The Executive Director, or such individual that may be designated to act in that position in her/his absence, may be removed or may resign according to term stipulated in her/his contract with the Board.

ARTICLE XII

DISSOLUTION

- 12.1** Upon the dissolution of the Corporation, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the Corporation, dispose of all the assets of the Corporation exclusively for the purposes of the Corporation in such manner or to such organization or organizations organized and operated exclusively for charitable, educational, religious, or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501 (c)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law), as the Board of Directors shall determine.

I, Valerie Brown, Chair of the of the Board of Directors of ICLEI - Local Governments for Sustainability U.S.A., Inc., do hereby certify and attest that the enclosed copy of the Corporation's Bylaws is a true copy thereof and that the Bylaws were duly adopted as amended by the Board of Directors of this Corporation on November 12, 2015.

ICLEI U.S.A. By-Laws

As amended in-principle by the ICLEI U.S.A. Board of Directors on August 8, 2012

Signed under the pains and penalties of perjury this _____
Day of _____, 2015__:

Chair

From: USA Chabad Lubavitch
To: [Cownie, Frank](#); [Gray, William S.](#); [Westergaard, Linda C.](#); [Hensley, Christine L.](#); [Gatto, Joe P.](#); [Coleman, Chris](#); [Coleman, Chris](#); ColemanSeven@mchsi.com; [Moore, Skip](#); [CityManager](#); [Lester, Jeffrey D.](#); [CityClerk](#); [Phillip Delafield](#); [Cooksey, Pamela S.](#); [Ritter, Dan E.](#); [FireDept](#); [Lloyd, Jackie J.](#); [Wells, James R.](#); [Newman, John R.](#); [Page, Benjamin R.](#); [Policechief](#); [Gano, Jonathan A.](#)
Subject: An Open Letter to American Jewry
Date: Friday, January 22, 2016 9:21:34 AM

By the Grace of G-d

4 Sivan 5775

5/22/15

An Open Letter to American Jewry

Dear Fellow Jew,

As the 2016 presidential election approaches and candidates launch their campaigns, it is vital for the American Jewish community to be aware that there is one contender whose bid is fundamentally invalid and whose candidacy must therefore be considered a non-option: presumptive Democratic nominee, Hillary Clinton, a pathological liar, subversive fraud and vicious enemy of the Jewish people. Clinton has waged war on lawful governance both in America and Israel for close to five decades and committed crimes against humanity that span the globe. The present letter contains important information relating to Clinton's background and activities, from her days as a Black Panther provocateur to her alliance with the Muslim Brotherhood as Secretary of State. I ask that you give it your full attention.

HILLARY, CLOSET JEW

Contrary to her claim that she's a Methodist Christian, Hillary Clinton is, in fact, a Jew. The family name of "Rodham," was once "Rodomski," and her father's family came from Lodz, Poland, relocating to England before emigrating to the Chicago area. One of the reasons why she keeps this fact secret is because of another skeleton in her closet -- the deep financial ties she holds with Israel's worst enemy, Iran. The greater part of the Clintons's vast fortune comes from Iran, whether directly or via other regimes and entities that make donations to the Clinton Foundation. The Clinton Foundation has received millions of dollars from Iran through its New York-based front group, the Alavi Foundation. Alavi's board of directors is appointed by Iran's supreme leader, Ayatollah Khamenei (who calls for "Death to Israel" and "Death to America"). Two former directors of Alavi, Mohammad Hossein Mahallati and Manoucher Shafie, were suspected in 1993 by U.S. authorities of "exporting germ-warfare toxins to Iran." Alavi is partners with ASSA Corp, which was designated by the U.S. Treasury Department as a terrorist entity on 12/17/08; and with Bank Melli, also designated by the U.S. government as a terrorist entity on 10/25/07.

Masquerading as a non-Jew allows Hillary more freedom to engage with Israel's enemies, but at the same time, it compels her to constantly prove her pro-Arab bonafides. And if she's not diligent enough she risks being exposed. Hence, her egregiously vicious anti-Israel stance that includes relentless efforts to push Israel back to its pre-1967 borders. This is a suicidal concession that would allow Hamas to deploy at point blank range of Israel's heartland. In the

summer of 2014 Hamas fired thousands of missiles into Israel from Gaza and an Israeli withdrawal from Judea and Samaria would bring those missiles to the very doorstep of every home in the country. But that's just as Hillary would have it. As a Jewish apostate in partnership with the devil, she's got to reaffirm her hatred for Israel every day anew.

HILLARY, CLOSET LESBIAN

In addition to being a closet Jew, Hillary is a closet lesbian (see attached photo and video of Hillary in lewd lesbian encounters), whose past affairs include a tryst with John Lennon's widow, Yoko Ono. In 1971, when police raided the California motel where Hillary had holed up with the Black Panthers, they found her naked in bed with a black woman (details below). In an interview with UK's *Daily Mail*, Bill Clinton's former mistress, Jennifer Flowers, stated that Hillary "had eaten more pussy than he [Bill] had."

Hillary has never publicly admitted that she's a lesbian. On the contrary, she has publicly lied that she's straight. Asked about rumors that she's a lesbian, she told the *Advocate* magazine in 2007: "It's not true, but it is something that I have no control over. People will say what they want to say."

To make a bad situation worse, her longtime paramour is a Muslim infiltrator named Huma Abedin who served as Deputy Chief of Staff at the State Department when Clinton was Secretary of State.

At best, when a lesbian runs for office on a straight ticket she's committing fraud and undermining the democratic process. She's attempting to take a practice that G-d defines as an abomination and which the vast majority of voters considers deviant and perverse, smuggle it into the realm of legitimate causes through the back door and reintroduce it to the public as a moral imperative -- as the majority will. But Hillary's homosexual relationship with a Muslim Brotherhood operative, that goes back almost twenty years, is much more serious even than fraud. It constitutes a breach of U.S. security that should have prevented her from receiving a security clearance to become Secretary of State. It's another bond that ties her to Israel's sworn enemies and enables them to control her through blackmail and bribes.

The attached photo of Hillary and Abedin intertwined in front of a bathroom mirror is obviously much more than an everyday selfie that accidentally found its way to the internet. It's blackmail in action. It was released by Abedin after the sexting scandal in 2013 that quashed her husband, Anthony Weiner's bid for Mayor of New York City and created a rift between Abedin and Clinton. It opens a small window to the grimy boiler room mechanics that underlie Hillary's wealth and power and gives a glimpse into what can happen when gears get misaligned.

The split identities and conflicting lies that reside in the person of Hillary Clinton yield her the best of all worlds. She's a wild beast of an apostate who persecutes the Jewish people like no gentile can -- but dare call her out for being a closet Jew and you're an anti-Semite. She's a slippery con artist of a lesbian-- but expose her as a closet lesbian fraud and you're a homophobe. She's survived the scandals that dog her by barricading herself in a world of smoke and mirrors -- even her cosmetic-plastered face looks like an optical illusion. I've seen only a few pictures of Hillary that seem to accurately reflect their subject; one of them is the unannounced bathroom shot snapped by Abedin, just mentioned. But you won't see that flaccid jowl and addled stare in any of Hillary's campaign ads, or photos released by the media.

HUMA AND HILLARY: AMBASSADORS OF JIHAD TO THE UNITED STATES

Before going on, the subject of Hillary's relationship with Abedin and the Muslim Brotherhood needs to be addressed. In any capacity, Abedin's presence in the White House would have been an outrage. But for her to have served both as Hillary Clinton's mistress and top staffer and adviser at the State Department when Clinton was Secretary of State signals the utter breakdown of lawful governance in America. Abedin is a Muslim plant who holds close ties with the most infamous Islamic jihadists in the world. Between 1996 and 2003, which includes the period she was serving as an intern at the Clinton White House assigned to Hillary Clinton, she was the assistant editor at the JMMA (Journal of Muslim Minority Affairs). The JMMA was founded by top al-Qaeda financier and Abedin family patron Abdullah Omar Naseef, who also ran the Rabita Trust, a formally designated foreign terrorist organization under American law due to its funding of al-Qaeda. Additionally, Naseef has collaborated with Huma Abedin's brother, Hassan Abedin.

Naseef recruited Abedin's father, Zyed Abedin, to run the JMMA in Saudi Arabia, under the management of the World Assembly of Muslim Youth, a virulently anti-Semitic, sharia supremacist organization. When Zyed Abedin died, editorial control of the journal passed to his Pakistani wife (Huma's mother), Salcha Mahmood Abedin, a leader in the Muslim Brotherhood's secret women's division, the "Muslim Sisterhood," and a relative of former Egyptian president and Muslim Brotherhood leader, Mohammed Morsi. Salcha Mahmood Abedin is also director of the IICWC (International Islamic Committee for Woman and Child) -- part of a composite entity of the Union of Good, a formally designated terrorist organization led by Sheikh Yusuf al-Qaradawi. Like Naseef, al-Qaradawi has collaborated with Salcha's son/Huma's brother, Hassan Abedin.

Also during this period, between 1997 and 1999, Abedin sat on the executive board of the MSA (Muslim Student Association) while attending college at George Washington University. The MSA is the foundation of the Muslim Brotherhood's infrastructure in the U.S. Its satellite organization, ISNA (Islamic Society of North America) is a Muslim Brotherhood front group and was named an unindicted co-conspirator in the Holy Land Foundation case because of its support for Hamas, the Muslim Brotherhood's Palestinian branch and a designated terrorist organization. Terrorist leaders associated with the MSA include Anwar al-Awlaki, an American-born al-Qaeda operative who led the MSA chapter at Colorado State University in the early nineties and became the spiritual advisor to the MSA in 2001 while ministering to some of the eventual 9/11 suicide-hijackers; and Wael Jalaidan, who ran the MSA in the eighties at the University of Arizona and went on to found al-Qaeda with Osama bin Laden. Jalaidan also partnered with Abdullah Omar Naseef to establish the Rabita Trust, mentioned above.

EGYPTIAN LAWSUITS NAME HILLARY CLINTON AND OBAMA CO-CONSPIRATORS WITH THE MUSLIM BROTHERHOOD

The Muslim Brotherhood is a full-fledged terrorist organization. Its crimes against the Egyptian citizenry include mass murder, enslavement, deportations, torture, rape and sexual slavery. It has vowed to annihilate the Jewish people and proclaimed "grand jihad" to destroy the United States. It is a satellite organization of Iran: After Mohammed Morsi's ascent to power, then-Iranian President Mahmoud Ahmadinejad made an official visit to Egypt to meet with Morsi, the first visit of an Iranian leader to the country in over thirty years. Morsi and other high-ranking Muslim Brotherhood members are presently in prison for murder and treason and are awaiting the death penalty. The current Egyptian government, as well as Saudi Arabia, have declared the Muslim Brotherhood a terrorist group.

Despite all this, Clinton and Obama have not declared the Muslim Brotherhood a terrorist group and adamantly refuse to do so. That's predictable, given their deeply rooted alliance with Iran which finds full expression in Huma Abedin's leading role at the State Department and the conspicuous presence of other Iranian and Muslim Brotherhood operatives at top level positions in the federal government.

Moreover, on Clinton's watch the State Department reversed the federal government's prior policy against official dealings with the Muslim Brotherhood. Concurrently, it embraced a number of Muslim Brotherhood positions that undermine both American constitutional rights and America's alliance with Israel. They include the following:

- After the Muslim Brotherhood's "election" victory, the State Department and the Obama administration waived congressional restrictions in order to transfer billions of dollars in aid to the Muslim Brotherhood and to Hamas, in Gaza.
- Clinton personally intervened to reverse a Bush-administration ruling that barred Tariq Ramadan, grandson of the Brotherhood's founder and son of one of its most influential early leaders, from entering the United States.
- The State Department and Obama administration hosted a contingent from Morsi's newly "elected" parliament that included not only Muslim Brotherhood members but a member of the Islamic Group, which is formally designated as a foreign terrorist organization. At the same time, it refused to provide Americans with information about the process by which it issued a visa to a member of a designated terrorist organization, about how the members of the Egyptian delegation were selected, or about what security procedures were followed before the delegation was allowed to enter the U.S.
- The State Department collaborated with the Organization of Islamic Cooperation, a Muslim Brotherhood affiliate, in seeking to restrict American free-speech rights in deference to sharia proscriptions against negative criticism of Islam.
- The State Department excluded Israel, the world's leading target of terrorism, from its "Global Counterterrorism Forum." At the forum's kickoff, Clinton decried various terrorist attacks and groups, but did not mention Hamas or attacks against Israel -- in transparent deference to the Muslim Brotherhood's stance that Hamas is not a terrorist organization and that attacks against Israel are not terrorism.

But that's not the full scope of the outrage. Obama and Clinton railroaded Morsi's successful power grab, exerting political influence and secretly bribing high-ranking Muslim Brotherhood members with millions of dollars to round up and kill opponents of the Morsi regime. Hillary Clinton covertly collaborated with the Muslim Brotherhood in a deal that would have laid the groundwork for Israel's destruction. As reported extensively in the Egyptian news media, Clinton helped Obama secretly bribe the Muslim Brotherhood with \$8 billion to guarantee the transfer of 40% of the Sinai Peninsula to Hamas and its annexation to Gaza, a maneuver that would have put Israel in an indefensible position opposite Hamas. Had Morsi remained in power, the deal would have gone through.

The Obama administration's open, unapologetic embrace of the Muslim Brotherhood prompted the Egyptian government to take legal action, and in November 2013 a group of Egyptian lawmakers filed a complaint against Obama in International Criminal Court charging him with crimes against humanity. In a second criminal complaint submitted on 12/13/13 to

Egypt's attorney general, Hisham Barakat, Hillary Clinton was named as a collaborator with Naglaa Mahmoud, the wife of ousted Egyptian President Mohammed Morsi, in seeking to incite domestic insurrections to topple the current leader of Egypt, Abdel Fattah el-Sisi. Clinton's close relationship with Mahmoud goes back to the eighties, when Mahmoud lived in the U.S.

HILLARY SOLD APPROVAL FOR THE SALE OF AMERICAN URANIUM TO IRAN

Recently, it was disclosed that as Secretary of State Clinton sold State Department approval for the Russian corporation Rosatom's purchase of one-fifth of America's uranium from a Canadian company named Uranium One. But the lesser known and more damning aspect of the scandal is that Russia has gone on to sell this uranium to Iran. At issue is not just the bribes Hillary received from Uranium One, but an entire scam designed to facilitate Iran's purchase of uranium from America without igniting a political firestorm. This was accomplished by setting up a series of sales and purchases between four countries -- America, Canada, Russia and Iran -- that saw the uranium pass from hand to hand until it wound up with the world's leading state sponsor of terrorism. The bribes received by Hillary from Uranium One to approve its sale of mining rights to Rosatom are by now a well-know fact. But without a doubt, Hillary has been standing in the toll booth at every checkpoint along the way, collecting bribes, kickbacks and commissions from all parties involved.

OSLO, BENGHAZI AND THE ARAB SPRING

The implications of Hillary's relationship with Iran and its proxies are too serious to ignore. Twenty-two years after the signing of the Oslo Accords advanced by Hillary through Bill, Israel still hasn't recovered from the devastating effects of this treacherous pact which catalyzed countless terror attacks that left thousands of Israelis dead and many more crippled and maimed for life.

As U.S. Secretary of State, Hillary played a key role in the murder of American Ambassador Chris Stevens in Benghazi but her complicity is much more sinister than what the Western media and Congress have exposed thus far. First, contrary to the official report that Ambassador Stevens died of smoke inhalation, he was savagely tortured to death by his attackers. His genitals were cut off and he was sodomized, beaten, cut, stabbed and burned for seven hours. His body was then dragged through the streets and thrown into a ditch. The other three Americans killed in the attack met similar fates.

The fact that this information has been withheld from the public is an indication of how much secrecy surrounds the true circumstances of the attack. The same can be said for the joint efforts to distract and disinform, such as the media's studied, tedious dissection of irrelevancies surrounding the incident, like the words used by Obama to describe it; and Congress's preoccupation with the question of whether the attackers planned the strike in advance or committed it on the spur of the moment in reaction to an anti-Muslim YouTube video -- a question that presupposes the guilt either of the Muslims who stormed the consulate or terrorist entities associated with them, and precludes the possibility that the attack was staged. Considering that days before the attack warnings were coming into the consulate in Benghazi of an impending attack; that during that period Stevens put out repeated requests to Clinton at the State Department for the dispatch of a security force to the consulate; and that those requests went unanswered as Clinton sat back and watched the catastrophe play itself out like a horror film, her guilt for the attack is *prima facie*. The starting point of the investigation should have been that this was a black flag attack orchestrated by Clinton, Obama and the CIA. That would have led to the swift disclosure that they and Stevens had been vying for control over Libya's oil fields and that, true to form, Clinton and Obama chose to "resolve" the

dispute by murdering Stevens.

This incident is part of a broader narrative called the "Arab Spring," a carefully planned series of revolts across the Middle East beginning in 2010 made to appear spontaneous, that were instigated by Clinton and Obama in order to transform the region into an Iranian caliphate. The name itself is mockingly euphemistic, suggesting that these bloody conflicts are somehow to be construed as a positive development in the Arab world. The unending carnage and devastation brought on by the Arab Spring disprove those optics, but for Hillary..."What difference does it make?!!" She and Obama contrived those conflicts to make money, whether by gaining control of the area's vast oil fields or getting kickbacks on American financial aid from the new puppet rulers they installed -- and the money has been rolling in ever since. That settles it, the Arab Spring was good after all. But it's a moot point because for Hillary the difference between good and evil has always been entirely a matter of semantics.

Hillary and Obama's vigorous efforts to oust Prime Minister Benjamin Netanyahu in recent Israeli elections are in pattern with the Arab Spring agenda. In January 2015 they flew their joint campaign strategist, Jeremy Bird, and four other experts into Israel to head the "Victory 2015" campaign whose declared goal was to unseat PM Netanyahu. (Note that V15 is a recipient of illegal State Department funding.) Its undeclared but equally obvious goal was to replace Netanyahu with a closet gay named Buji Herzog. Effeminate, spineless and servile, Herzog would have been the next closet homo to sabotage a democratic government and a willing partner to all Obama's evil designs for Israel. By the grace of G-d the campaign failed, and under the blessed leadership of PM Netanyahu Israel remains a stronghold of freedom and stability in the Middle East.

HILLARY CLINTON'S SINFUL LEGACY: THE BLACK PANTHER LYNCHING OF ALEX RACKLEY

Hillary's experience as an instrument of wicked subterfuge goes back over forty years. As a radical law student at Yale University, she was a key agitator in the Black Panther movement and helped engineer the brutal lynching of Alex Rackley in which he was tied to a bed, beaten and scalded with boiling water for two days before being driven to a marsh and shot to death. During the murder trial in 1970, Clinton advocated for the accused and lead violent protests in their defense that shut down Yale University. In 1971 she joined the Panthers at their national headquarters in Oakland California and, at one point, led them in a caravan to the state capital in Sacramento where they terrified the legislators with a large number of firearms. As already mentioned, according to a California State Police report, when they were finally routed out of a local motel Clinton was found naked in bed with a black woman. The incident was written up and published by *San Francisco Chronicle* columnist Herb Caen. When Bill Clinton became President, he sent the FBI to seize the report, but copies had been made and circulated.

Eight years after Rackley's death, all but one of the accomplices to his murder were out of jail. Warren Kimbro, who shot Rackley in the head and turned state's evidence after admitting his role in the murder, was freed after four years -- although his crime carried a mandatory sentence of life imprisonment. He went on to get a scholarship to Harvard and became assistant dean at Eastern Connecticut State College. Ericka Huggins, the woman who boiled the water for Mr. Rackley's torture, was eventually elected to a California school board.

Hillary carried the day and anarchy prevailed.

One of the subtler aspects of the Alex Rackley case that has come to define the subversive

tactics of the Old World Order is the use of libel against a group member -- usually one of its best -- to sabotage and gain control of the group. Rackley was an expert in martial arts and a promising leader. Someone sincerely interested in benefiting the Black Panthers would have invested in his development and advancement. But Clinton and her cabal were interested in controlling the Black Panthers, not benefiting it. And since they perceived in Rackley a threat to their control, his leadership potential qualified him for one thing -- liquidation. Libeling him as an FBI informant turned him overnight into a pariah and filled his former friends with an all-consuming desire to kill him. He was savagely tortured in order to make a spectacle of his death which, captured on hidden video camera, would provide the means to blackmail his assassins and the Black Panther organization in the future.

Again, this strategy of playing a group against one of its own members, where the victim's own friends execute his murder, is the Old World Order's method of choice because the depth of subterfuge it involves makes the cowards pulling the strings immune to exposure. It affords them a transparency that makes them invisible to the victim, invisible to his murderers and invisible to law enforcement. Hiding in plain sight, they have an insider's intimate knowledge and control over all the details of the murder, without the risks. This enables them, afterwards, to manipulate and blackmail those who carried out the crime -- to "help" or hurt them in their legal defense, even to gain their gratitude and sense of indebtedness. That's how a very architect of the lynching, Hillary Clinton, morphed into an advocate of the Black Panthers and secured her reputation as a leading sponsor of the African American cause. This kind of sabotage corrupts a movement's moral fiber. It instills radicalism in otherwise moderate groups, turns motivated, idealistic people into barbarians and swells the ranks of the Old World Order with new recruits now aligned with the devil for life.

These dynamics are discussed at length in *The Only Democracy in the Middle East*, as they relate to crimes committed during the reign of terror in Israel under Hillary Clinton and Obama's mentor, Shimon Peres, most notably the 1994 assassination of Dr. Baruch Goldstein. For more information, log into www.BearMountainPress.com.

UNMENTIONABLE QUOTES

Off-camera Hillary's mouth is filthier than a sewage drain. When she was "First Lady" it was routine to hear her spout obscenities on her guard detail and staff unprovoked or in situations where they hesitated to act on her maniacal whims. The following is what she said to her State Trooper bodyguards after one of them greeted her with "Good Morning":

"F**k off! It's enough I have to see you shit-kickers every day, I'm not going to talk to you too!! Just do your G*damn job and keep your mouth shut." ([America Evita](#) by Christopher Anderson, p.90).

Here's what she said to a Secret Service Agent who was reluctant to carry her luggage because he wanted to keep his hands free in case of an incident:

"If you want to remain on this detail, get your f**king ass over here and grab those bags!" ([The First Partner](#) by Joyce Milton, p.259)

In a fit of uncontrolled rage she once screamed at her Secret Service detail:

"Stay the f**k back, stay the f**k back away from me! Don't come within ten yards of me, or else! Just f**king do as I say, Okay!!?" ([Unlimited Access](#) by Clinton FBI Agent in Charge, Gary Aldrige, p.139)

Other incidents include:

Hillary shouting at a Secret Service officer: "Where's the miserable c**k sucker!" ([*The Truth About Hillary*](#) by Edward Klein, p.5)

Hillary to a State Trooper who was driving her to an event : "You f**king idiot" ([*Crossfire*](#) p.84)

Hillary to Marine One helicopter pilot to turn back while en route to Air Force One: "Put this on the ground! I left my sunglasses in the limo. I need those sunglasses. We need to go back!" ([*Dereliction of Duty*](#) p.71-72)

Hillary to Gov. Clinton when she spots him talking with an attractive female: "Come on Bill, put your d**k up! You can't f**k her here!!" (*Inside the White House* by Ronald Kessler, p.243)

HILLARY CLINTON: SUPREME LEADER OF THE DEMOCRATIC PEOPLE'S PARTY

Little wonder she's running for president unopposed, save for a symbolic rival named Bernie Sanders. Sanders, who'll be 75 when elections take place, is among the oldest, if not the oldest Democratic senator in Congress and he's obviously supposed to make Hillary, who'll be 69 at election time, look young by comparison. But he could just as easily play her geriatric companion in an ad for hearing aids or a laxative commercial. This cheap stunt doesn't mitigate the alarming fact that in practical terms Hillary has no challengers in her own party. Contrast that with the hefty raft of candidates vying for nomination in the Republican party.

By the way, is this the same Democratic party that touts itself as the advocate for "equal opportunity"? Whose charter states that "wealth and privilege shouldn't be an entitlement to rule" and that society shouldn't "reward greed and recklessness...by letting those with the most influence write their own rules"?

Indeed, it is. But Hillary Clinton has stripped the varnish off those words and turned the Democratic party into a dictatorship. Given her history of Machiavellian psychosis can anyone blame presidential hopefuls in the party for laying low? America, heads up. This is what our entire country is going to look like if Hillary gets a shot on the big stage in Washington, only much worse.

Bottom line: Hillary has to resign and withdraw her candidacy. Hillary, go catch a virus or fall down some stairs. America is sick of you.

"All Jews are responsible for each other," teach our Sages of blessed memory. This is not just a commandment but a warning. As the facts chronicled in this letter demonstrate, Hillary Clinton should be standing trial for crimes against humanity. She has done unspeakable harm to Israel, to America and to the world. There can be no greater desecration of G-d's name and no greater blight on the name of the Jewish people than for American Jews to ignore this fact and sell out Israel in support of her. And if love of Israel isn't reason enough for some Jews to repudiate this wicked shrew, then they would do well to remember that ultimately all Jews, wherever they reside, share a common fate. As sure as day, what happens to our brethren in Israel will happen to us. And don't count on Hitler to save you.

I call upon American Jewry to demand Hillary Clinton's resignation and withdrawal of candidacy so that honest, fair presidential primaries in the Democratic Party can take place and all eligible candidates who wish to run for president can make their bid freely and without fear.

I call on American Jewry to denounce Hillary Clinton so that democracy in America can endure.

Long live our Master, the Great Rebbe of Lubavitch King Messiah, forever!

Rabbi Shaul Elkeslasi

USA Chabad Lubavitch, Inc.

Links:

Invocation at the Pike County (PA) Commissioners' Meeting, February 4, 2015

<https://www.facebook.com/100006862032294/videos/1530181580553895/?pnref=story>

Facebook: Chabad House of Pike County, Port Jervis & Deerpark

<https://www.facebook.com/pages/Chabad-House-of-Pike-County-Port-Jervis-Deerpark/616819398367478?ref=hl>

Facebook: Shaul Elkeslasi

<https://www.facebook.com/menachem.elkeslasi>

Website: www.MessiahTimes.com

From: joesherman
To: [Cownie, Frank](#)
Subject: Andie Dominick's editorials on Medicaid privatization
Date: Monday, April 30, 2018 3:23:14 PM

Hi Mayor Cownie,

We met, briefly, at COP21, the night of the reception at the US ambassador's house. I was reporting from Paris on the conference and Paul Leroux introduced us. As I recall it, we had a talk about being mayor of a Democratic city in a Republican state and about the positive momentum being stirred up to act on climate change in those halcyon days when action seemed imminent, rather than stomped.

I'm emailing you because I also cover health Medicare/Medicaid fraud and policy for the Senior Medical Patrol here in Vermont. You have SMP offices, as do all the states.

I'm writing a column about Andie Dominick's editorials as a cautionary tale for the Vermont SMP newsletter readers, a mix of state regulatory, legal, health care and media folks. Dominick's editorials and the details of the privatization effort need wider attention, so I hope to do my part.

I've been bothered by the low awareness levels regarding the story in Iowa, and of the Pulitzer taken home by Dominick. I'm afraid the political divide besetting so many issues today has gotten its teeth into her columns, applying the "fake news" label. Though maybe I'm wrong.

Anyway, if we could chat for five to ten minutes, that would be helpful and much appreciated. I'm interested in your personal take on the editorials impacts in Des Moines, in more rural parts of the state, as well as the future of privatization of Medicaid. Whether it will gain momentum or be reversed through a series of challenges and voter concern.

Hope this finds you well.

Thanks for considering this and hope to hear from you soon.

Joe Sherman
www.joesherman.com
802 326 4860

Sent by my fingers

From: Jennifer O'Connor
To: [Cownie, Frank](#)
Subject: Aug 27, Failure to balance bill patients leads to large recoupment, audits, and litigation!
Date: Wednesday, August 26, 2015 8:24:50 AM

Good morning,

Most out of network health care providers make critical mistakes that jeopardize their compliance with state and federal laws. Many providers tell patients that they will accept any payment received from the patient's health plan as payment in full. This is a very dangerous practice, which can amount to insurance fraud, and it is prevalent throughout the United States.

Join expert speaker **Thomas Force, Esq.** in this On Demand **Webinar**—“[The Balance Billing Requirement - Why Out-of-Network Providers Must Balance Bill Their Patients](#)”, tomorrow, **Thu, Aug 27, 2015**, to learn how OON providers and their revenue recovery staff can maintain compliance while collecting a fair amount of money from the patient's health plan. He will also shed light on state laws relating to balance billing requirements for OON providers.

Failure to balance bill patients can lead to large recoupment, audits, and litigation for insurance fraud. This training session will help you avoid common pitfalls and get answers to questions like the following:

- Why is balance billing required in most jurisdictions?
- What are the exceptions to balance billing requirements?
- How do I properly balance bill patients without offending or alienating them?
- How can my practice use ERISA to appeal denied and under-reimbursed claims for employer-sponsored plans?
- What is a recoupment and what to do when faced with one?
- What are the penalties for non-compliance with balance billing?

Session Highlights:

- Learn why OONs are required to balance bill—and why it's insurance fraud if you don't.
- Consider the case of Ingenix's conflict of interest—and how FAIR Health is reforming Out-of-Network reimbursement.
- Review ERISA Preemption—what it means for providers located in states that restrict or prohibit balance billing.
- View case studies of problematic billing—and how they are noncompliant.
- Understand patient protections under PPACA: Coverage for Emergency Services.
- Discover industry insights on Medicare, TRICARE/CHAMPUS and balance billing
- Learn about the impact of New York's Emergency Medical Services and Surprise Bills Law
- Write a patient friendly balance bill letter, and consider the timing of the same
- Review the importance of a Charity Care Program/ Financial Hardship Policy
- Learn best practices: Transparency and Disclosure
- Discuss Case Laws—Cigna vs. Health Diagnostics, Aetna vs. Health Diagnostics Laboratory, and more.

Please apply "**SAVE20**" at check-out and get **\$20 off**. Plus, you will get *1 AAPC CEU* per registration.

[CLICK HERE TO REGISTER](#)

Looking forward to your participation in this webinar.

Thanks,
Jennifer O'Connor

This email was sent to: FCOWNIE@DMGOV.ORG by **Audioeducator**
2222 Sedwick Rd, Durham, NC, USA | Tel: +1239 2802300

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From: Matt Connolly
To: [Cownie, Frank](#)
Subject: Bus is leaving Holy Trinity for economic development tour
Date: Friday, October 14, 2016 10:14:14 AM

Come on!

MATT T. CONNOLLY
LICENSED BROKER TO SELL REAL ESTATE IN IOWA
515-975-9600
IOWA REALTY
3521 BEAVER AVE. DSM, IA 50310
OFFICE HRS: M-F 8-6:30

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From: Nathan Proctor
To: [Cownie, Frank](#)
Subject: Can you help us end anonymous shell companies?
Date: Tuesday, May 03, 2016 9:49:48 AM

Hello Mayor Cownie,

I am working with Sue Dinsdale and ICAN on a project to end the use of anonymous shell companies (you can read a recent letter she wrote to the Register [here](#)). Part of our project is to get a letter signed by city and county elected officials, and she suggested you would be a great person to reach out to.

In Iowa and around the country, shell companies are used to avoid accountability for all sorts of bad behavior – from funding Super PAC attack ads to laundering money for terrorists. It's at the heart of the "Panama Papers" leak.

Most businesses have nothing to hide, but if you do have something to hide, it's easy: You just set up an anonymous shell company -- which in America, requires less personal information than it takes to get a library card.

We are working to back a bipartisan plan to end the use of anonymous shell companies and are gathering voices of support from civic leaders such as yourself. Would you be willing to sign our letter?

We, the undersigned, are calling on Congress and the Obama Administration to take action to challenge injustice, protect the most vulnerable, curb corruption and promote transparency by ending the use of anonymous shell companies in the U.S.

Anonymous shell companies are used to hide illegal behavior – from fraud, to terrorism, human trafficking and drug running – and protect criminals from justice.

Please support the bipartisan reforms that require all American companies to disclose their 'beneficial' owners – the real, living individuals who own and ultimately control a company – to the government when they are created, and to keep that information up to date.

In order to move ahead, we need Sen. Chuck Grassley – who has cosponsored this measure in the past – to stand with us now.

Working with a strong coalition of small business, anti-corruption, faith-based, human rights, public-interest, and international development organizations, we are working to show support for this common-sense reform. You can help by adding your name to our letter!

Best,

Nathan Proctor

--

Nathan Proctor
National Campaign Director
Fair Share
O: (617) 747-4429
C: (203) 522-3860

From: Barr, Vicky
To: [Presutti, Elizabeth](mailto:Presutti.Eizabeth@msgiah52@yahoo.com); msgiah52@yahoo.com; vwilley@altoona-iowa.com; glorenz@ankenyiowa.gov; delrod@cityofbondurant.com; mmccoy@cityofclive.com; Cownie, Frank; mpjust01@gmail.com; mjbackous@hotmail.com; hampforgrimes@gmail.com; PSD@nyemaster.com; dean.brand@mittchellville.org; skurovski@pleasanthilliaowa.org; jmorse@polkcitvia.gov; Connolly, Angela; Jerry.Lane@cityofrunnells.com; Gayman, Tom; Gaer.Steve@rrrealty.com; ZBH@CBDSM.com; bcjones@prairieinnet.net; SHenry@southstorybank.com; bobbibentz@hotmail.com; moliver@cityofbondurant.com; alent@carlisleiowa.org; jedwards@cityofclive.com; cityofelkhart@huxcomm.net; cityclerkgranger@outlook.com; dgisch@ci.grimes.ia.ua; tomwcope@msn.com; Tmitchell7745@aol.com; Robert D. Andeweg; jwalters@snyder-associates.com; Van Oort, Steve; city-clerk@runnellsia.com; tom.hadden@wdm.iowa.gov; joseph.jones@drake.edu; rgrooters@pleasanthilliaowa.org; Mandelbaum, Josh T.
Cc: Wanke, Amanda; Schug, Jamie; Sanderson, Timothy; Stull, Katie; Barr, Vicky; Fuller, Melissa; Stober, Evan; Simon, Rachel
Subject: DART Commission Meeting - February 6, 2018 and Photos
Date: Monday, February 05, 2018 4:03:03 PM
Attachments: [DART Commission Packet - February 6, 2018.pdf](#)
[DART Financials December 2017 - February 6, 2017.pdf](#)

Dear DART Commission Members and Alternates:

We are looking forward to seeing you at the DART Commission Meeting tomorrow, Tuesday, February 6, 2018. We will have lunch provided and will start the meeting promptly at noon.

As a reminder, if you are an Alternate, you do not have to attend the Commission meeting if the primary Commissioner will be in attendance, however, you are always welcome should you choose to attend.

The commission agenda packet is attached for your reference. If you have requested a printed packet ahead of time this will be available for you at the meeting.

As a reminder, DART has scheduled time before and after the meeting to take updated headshots of our Commission members. Please plan to either arrive early to Tuesday's meeting, or remain for a few minutes after, to have your headshot taken. It is recommended that you avoid wearing any clothes with a bold print or pattern for the picture.

Parking will be available in the EMC/City of Des Moines parking ramp at 7th and Cherry – the best entrance is on the western side of the ramp on Cherry Street at the public parking sign. Please see the attached map for parking directions. We will provide a validated ticket for you to use when you leave.



Thank you and please do not hesitate to contact us if you have any questions or concerns in the meantime.

Best regards,

Vicky Barr, Executive Coordinator and Commission Clerk

DART, Des Moines Area Regional Transit Authority

620 Cherry Street, Des Moines, IA 50309

Direct: 515-283-5026 | Cell: 515-468-0995

Enriching Lives, Connecting Communities, Expanding Opportunities



NOTICE OF COMMISSION MEETING AND AGENDA
DES MOINES AREA REGIONAL TRANSIT AUTHORITY
DART MULTIMODAL ROOM, 620 CHERRY STREET
FEBRUARY 6, 2018 – 12:00 PM

	Page #
1. CALL TO ORDER	
2. ROLL CALL AND ESTABLISHMENT OF QUORUM	
3. NOTICE OF MEETING	
4. APPROVAL OF FEBRUARY 6, 2018 AGENDA	
5. PUBLIC COMMENT (Limit 3 minutes)	
6. TRANSIT RIDERS ADVISORY COMMITTEE	
7. CONSENT ITEMS	
A. Commission Meeting Minutes – January 9, 2018	2
8. ACTION ITEMS	
A. FY2019 Budget Public Hearing Date	6
B. Updated DART Procurement Policy	11
C. Bus Shelter Contract	156
D. December 2017 Financials	158
9. DISCUSSION ITEMS	
A. Reserve Fund Policy Review	160
B. Quarterly Investment Report	163
C. Quarterly Safety Report	175
D. DART Commission Long-Term Planning	177
E. Performance Report – December 2017	178
10. DEPARTMENTAL MONTHLY REPORTS (BY EXCEPTION)	
A. Operations	180
B. External Affairs	181
C. Procurement	185
D. Chief Executive Officer	187
11. FUTURE AGENDA ITEMS	188
12. COMMISSIONER ITEMS	
A. Update from Legal Counsel	
13. NEXT MEETING: Regular DART Meeting - Tuesday, March 6, 2018 – 12:00 P.M.	
14. ADJOURN	

Language, visual, hearing and transportation services are available at meetings upon request. For requests, please call DART at 515.283.8100 at least 48 hours in advance of the meeting.

**DES MOINES AREA REGIONAL TRANSIT AUTHORITY
COMMISSION MEETING MINUTES
620 CHERRY STREET – DES MOINES, IOWA 50309
JANUARY 9, 2018**



ROLL CALL

Commissioners Present: Vern Willey, Gary Lorenz, Doug Elrod, Michael McCoy (arrived 12.08pm), Frank Cownie, Mike Backous, Paula Dierenfeld, Sara Kurovski, Angela Connolly and Zac-Bales Henry

Commissioners Absent: John Hathaway, Michael Just, Jeremy Hamp, Jon Woods, Jason Morse, Gerald Lane and Tom Gayman

Alternates Present: Kyle Michel, Bob Andeweg (arrived 12.03pm) and Tom Haden

CALL TO ORDER

The meeting was called to order by Vice-Chair, Paula Dierenfeld at 12.00 p.m. Roll call was taken and a quorum was present.

Notice of the meeting was duly published.

APPROVAL OF AGENDA

Vice Chair, Paula Dierenfeld requested a motion to approve the agenda as presented.

It was moved by Mr. Willey and seconded by Mr. Cownie to approve the January 9, 2018 agenda. The motion carried unanimously

PUBLIC COMMENT

No Comments

2018 STATE LEGISLATIVE PRIORITIES

DART lobbyists, Mr. John Cacciatore and Mr. Christopher Rants provided updated the DART Commission on state legislative items of concern to DART. Concluding presentation by DART's lobbyists, Amanda Wanke, DART External Affairs Officer presented DART's 2018 State Legislative Priorities for approval. The DART Executive Committee reviewed the priorities outlined below at their meeting on December 15, 2017 and endorsed moving forward to the full DART Commission for approval.

It was moved by Mr. Cownie and seconded by Ms. Kurovski to approve the recommended 2018 State Legislative Priorities as presented.

CONSENT ITEMS

7A – Commission Meeting Minutes – December 5, 2017

7B – DART Drug and Alcohol Policy Required Update

7C – Des Moines MPO Representation

**DES MOINES AREA REGIONAL TRANSIT AUTHORITY
COMMISSION MEETING MINUTES – JANUARY 9, 2018**



It was moved by Ms. Kurovski and seconded by Mr. Willey to approve the consent items as presented. The motion carried unanimously.

ACTION ITEMS

8A – Taxi Services Contract

Jamie Schug, Chief Financial Officer introduced Mike Tiedens, DART's Procurement Manager to present the proposed taxi services contract and the needs for these services. DART conducted a Request for Proposals (RFP) for the project and one proposal was received from Translowa LC (dba Yellow Cab Company). They comply with the requirements outlined in the procurement.

It was approved by Ms. Connolly and seconded by Mr. Hadden to approve a three (3) year contract with two (2), one (1) year options with Translowa LC, for On-Call Taxi and Paratransit Services for the amount Not to Exceed \$1,400,00. The motion was carried unanimously.

8B – Letter to DART Member Communities Seeking Withdrawal from DART

Discussion occurred about the letter as it was presented. There were questions around lacking policies which made sure DART and the withdrawal communities will know the ramifications if they leave DART. Recommendations were made to change the verbiage of the letter before sending to the withdrawal cities.

The motion was amended to approve the letter be re-written, reviewed by legal counsel and the DART Executive Committee for approval. After this approval the letter will be mailed to the appropriate withdrawal cities. The motion was approved by Mr. Willey and seconded by Ms. Kurovski. The motion carried unanimously.

8C – Deer Ridge Apartment Complex Transportation

Staff have received numerous requests for transit service to and from the Deer Ridge Apartment Complex. Many refugees and low-income families with limited transportation options live at the complex. Staff have worked with community partners to survey residents about their transit needs and have partnered local organizations to determine ways to help. Staff is proposing implementing an interim community shuttle, at a cost of up to \$20,000 to DART over the next twelve months, to transport citizens from the Deer Ridge Apartment Complex to a shopping area, such as Wal-Mart, two to three times a week.

It was moved by Ms. Connolly and seconded by Mr. Bales-Henry to approve the proposed transportation plan for the Deer Ridge Apartment Complex implementing the service by early February, while also bringing long-term service options to the Commission for consideration as part of the August 2018 or February 2019 Fixed Route service changes. The motion carried unanimously.

**DES MOINES AREA REGIONAL TRANSIT AUTHORITY
COMMISSION MEETING MINUTES – JANUARY 9, 2018**



8D - November 2017 Financials

Amber Dakan, Finance Manager, provided a presentation on the November 2017 Financials. Fixed Route Operating revenue is on target with 0.74% over budget projections. Operations expenses are 6.68% below budget projections year to date.

Paratransit Operating revenue is 13.86% lower than budget expectations. Operating expenses are currently showing budget savings of 7.64%.

Rideshare revenues were 8.28% below budget. Operating expenses are below budgetary expectations by 6.75%.

It was moved by Ms. Kurovski and seconded by Mr. Andeweg to approve the November 2017 Financials. The motion carried unanimously.

DISCUSSION ITEMS

9A – FY 2019 DART Budget Development

Jamie Schug, Chief Financial Officer presented the FY 2019 Budget to the Commission. Ms. Schug provided updates to the budget assumptions including recent updates on taxable valuations being which will result in a proposed budget for FY 2019 with no property tax levy increase. The DART Commission Budget Workshop will be January 19 at DART Central Station. The Proposed FY 2019 DART Budget will be presented at this time.

9B – DART Procurement Update

Mike Tiedens, Procurement Manager presented a brief outline of the DART Procurement Policy and Processes and shared upcoming approvals that the Commission should expect.

9C - Performance Report – November 2017

Elizabeth Presutti, Chief Executive Officer, reviewed the Performance Report for November, 2017. Fixed route is up 0.5% and overall ridership up 1.5%. Year to date ridership is lagging by 0.5% but we are optimistic to see increases continue to what we had in November. Route 5 continues to perform strong after consolidating it with Route 91. We had over 7,000 riders in November from mobile ticketing users (we introduced the mobile ticketing in October). Staff have been working on modifying the performance report so it is easier for the Commission to understand. We will be going into more detail during the budget process so the Commission has an opportunity to ask questions. Mr. Elrod asked about the performance of Route 11. Elizabeth Presutti shared history on this route, outlining that this is a route with minimal service so we will be looking at the overall productivity of this route and make appropriate recommendations to the Commission in the future.

DES MOINES AREA REGIONAL TRANSIT AUTHORITY
COMMISSION MEETING MINUTES – JANUARY 9, 2018



MONTHLY REPORTS

10A – Operations

No Update

10B – Engagement

No Update

10C – Procurement

No Update

10D - Chief Executive Officer

Elizabeth Presutti, made note that DART will be undergoing a Triennial Review which is a study by the Federal Transit Administration. This is done every three years. This is a substantial review of our entire operation, looking at all functions and making sure we are adhering to Federal requirements. Staff has been working to get ready for their onsite meeting which will be in April 2018 (dates TBD).

FUTURE AGENDA ITEMS

None

COMMISSIONER ITEMS

DART FY19 Commission Budget Workshop – January 19th at 7.30 a.m.

FUTURE 2018 MEETING DATES:

February 6, March 6, April 2, May 1, June 5, July 10, August 7, September 4, October 2, November 6 and December 4.

Ms. Dierenfeld adjourned the meeting at 1:30 p.m.

Chair

Clerk

Date

*****OFFICIAL NOTICE OF THE NEXT DART COMMISSION MEETING DATE IS HEREBY PUBLISHED:**

The next regular DART monthly Commission Meeting has been scheduled for February 6, 2018 at 12:00 pm in the DART Multimodal Room at 620 Cherry Street, Des Moines, Iowa.

ACTION ITEM

8A: FY2019 Proposed Budget Public Hearing

Action: Approve a Public Hearing on the FY2019 Budget

Staff Resource: *Jamie Schug, Chief Financial Officer*

Background:

- Staff began preparing the FY2019 DART Budget this past fall and apprised the DART Commission monthly on any changes to the assumptions used to develop the proposed budget.
- A workshop was held with Commission members on January 19th where staff outlined the proposed FY2019 Budget in detail.
- The staff also met with the member government city managers on January 31st following the same format as the commission workshop.
- Updated summary revenue and expense charts for the proposed FY 2019 budget based on the feedback from the DART Commission budget workshop are attached.

Budget:

DART has made significant progress in serving the community, but we continue to hear from residents, businesses and community leaders about many unmet needs. The DART team seeks to address some of those needs in a creative, responsible and innovative manner, while the DART Commission works this year to determine the long-term plan for transit in our region and further identify the funding to meet those needs. The FY2019 budget aims to support this progress over the next year, with strategic initiatives including:

- Commission planning to determine the long-term vision for transit in our region as well as potential funding tools;
- Launch of a new fare collection system to improve the customer experience and garner efficiencies;
- Launch of an electric bus pilot;
- Initiatives to increase ridership including a new marketing campaign, implementation of route schedule adjustments to better meet rider needs, and new and expanded routes due to partnerships;
- Implementation of DART's first true crosstown on the Euclid/Douglas corridor — allowing residents to travel between eastern and western Des Moines without having to go downtown to transfer — made possible by an ICAAP grant through the State of Iowa;
- Continued technology expansion with the addition of a trip planner to the MyDART app; and
- The implementation of a consolidated call center in order to better serve customers and increase coordination and efficiencies between different parts of the organization.
- Based upon direction provided at the Commission budget workshop, the proposed budget includes three new items for FY2019;
 - Data Analyst Contract Position - \$75,000

ACTION ITEM

8A: FY2019 Proposed Budget Public Hearing

- Bus Stop/Shelter Cleaning Services - \$45,000
 - Business Partnerships Expansion – Cost Neutral
- The FY2019 budget maintains all current service levels without increasing DART's property tax levy rates.

Revenue assumptions include:

- Discontinuation of the City of Des Moines levy buy down of \$680,000, further increasing property tax revenue and eliminating municipal operating assistance revenue.
- Withdrawal of Carlisle, Elkhart, Mitchellville, Polk City and Runnells; reducing revenue by \$266,826.
- \$164,616 held as debt service reserve for future debt obligations for the cities of Carlisle, Elkhart, Mitchellville, Polk City and Runnells.
- \$305,000 ICAAP grant for the establishment of the Euclid/Douglas Crosstown route.

Expenditure assumptions include:

- Average of 3% pay increase for staff based upon labor contracts
- 10% premium increase in health insurance expense for employees currently enrolled
- IPERS Rate Increase
 - Employee rate 6.29% up from 5.95%
 - Employer Rate 9.44% up from 8.93%
- Corresponding expense of \$305,000 included to match ICAAP grant funds awarded for new Euclid/Douglas Crosstown route

Timeline:

Per the 28M Agreement, the Regional Transit Authority must hold a public hearing on the proposed budget and allow any member community or the public to provide information to the Commission prior to its adoption of the budget. A public hearing on the proposed budget is scheduled for:

Tuesday, March 6, 2018
12:00 P.M.
DART Offices – 620 Cherry Street
Des Moines, Iowa 50309

The hearing will be held immediately prior to the regular DART Commission meeting where the Commission will consider adoption of the FY2019 budget in advance of the 28M Agreement's deadline of March 15, 2018.

Recommendation:

- Approve a Public Hearing on the FY2019 Budget

FY 2019 Consolidated Budget Overview

FY 2019 Budget	
Operating Revenue	\$8,101,400
Non-Operating Revenue	\$25,034,088
Total Revenue	\$33,135,488
Total Expenses	\$32,976,320
Surplus (Deficit)	\$159,168

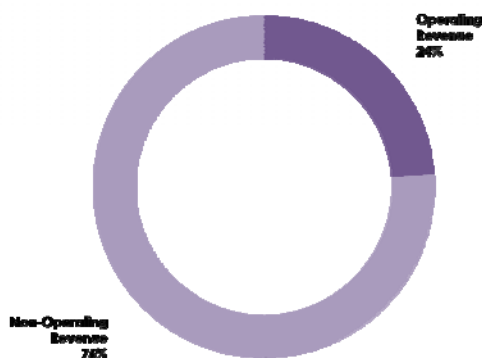
FY 2019 Budget Overview

	Actual FY 2016	Actual FY 2017	Adopted FY 2018	Budget FY 2019	% Change FY 2018/FY 2019
Operating Revenue	\$7,014,193	\$7,136,757	\$8,201,000	\$8,101,400	(1.21%)
Non-Operating Revenue	\$22,335,019	\$23,611,280	\$23,538,509	\$25,034,088	6.38%
Total Revenue	\$29,349,212	\$30,748,037	\$31,739,509	\$33,135,488	4.42%
Salaries, Wages and Fringes	\$17,522,471	\$18,646,918	\$20,098,185	\$20,957,012	4.27%
Services	\$2,951,166	\$3,086,852	\$2,584,280	\$3,276,551	26.79%
Building and Grounds Materials	\$124,262	\$226,773	\$90,000	\$61,000	(32.22%)
Office Supplies	\$72,709	\$128,306	\$55,700	\$56,700	1.80%
Fuels and Lubricants	\$2,176,481	\$1,758,128	\$3,125,433	\$2,949,000	(5.65%)
Tires	\$140,615	\$190,173	\$164,000	\$166,000	1.22%
Equipment Repair Parts	\$1,716,133	\$1,721,301	\$1,563,666	\$1,582,256	1.19%
Supplies and Materials	\$267,307	\$255,291	\$244,480	\$250,480	2.45%
Utilities	\$329,684	\$352,062	\$369,010	\$492,000	33.33%
Insurance	\$973,497	\$801,783	\$1,312,131	\$1,128,760	(13.98%)
Purchased Transportation	\$250,885	\$251,724	\$183,500	\$188,500	2.72%
Miscellaneous Dept. Expenses	\$1,163,044	\$696,217	\$467,450	\$534,520	14.35%
Local Match	\$1,152,463	\$1,170,971	\$1,481,674	\$1,333,541	(10.00%)
Total Expenses	\$28,840,717	\$29,286,499	\$31,739,509	\$32,976,320	3.90%
SURPLUS (DEFICIT)	\$508,495	\$1,461,538	\$0	\$159,168	

Budget Summary – Operating Revenue

	Actual FY 2016	Actual FY 2017	Adopted FY 2018	Budget FY 2019	% Change FY2018/FY2019
OPERATING REVENUE					
Cash Fares	\$4,175,954	\$3,999,804	\$4,599,400	\$4,655,500	1.22%
Other Contracted Services	\$2,078,493	\$2,375,957	\$2,684,800	\$2,570,900	(4.24%)
Polk County Funding	\$550,105	\$551,525	\$641,800	\$600,000	(6.51%)
Advertising Income	\$209,641	\$209,471	\$275,000	\$275,000	0.00%
TOTAL Operating Revenue	\$7,014,193	\$7,136,757	\$8,201,000	\$8,101,400	(1.21%)
NON-OPERATING REVENUE					
Interest Income (Expense)	\$2,012	(\$191,332)	\$5,340	(\$174,000)	(3,358.43%)
Sale Of Scrap	\$2,462	\$6,283	\$7,500	\$7,500	0.00%
DCS Rental Income	\$24,935	\$24,868	\$26,000	\$28,000	7.69%
Miscellaneous Income	\$61,999	\$60,257	\$41,000	\$41,000	0.00%
Property Tax Revenue	\$15,227,840	\$16,620,284	\$17,286,723	\$19,404,588	12.28%
Municipal Operating Assistance	\$680,000	\$680,000	\$680,000	\$0	(100.00%)
State Operating Assistance	\$1,424,098	\$1,517,504	\$1,640,770	\$1,650,000	0.56%
State Fellowships	\$53,349	\$53,881	\$0	\$0	0.00%
State Property Tax Backfill	\$699,006	\$691,142	\$610,000	\$610,000	0.00%
State Special Projects	\$0	\$3,258	\$0	\$0	0.00%
State Grant Funds	\$0	\$9,773	\$0	\$0	0.00%
CMAQ Funds	\$285,000	\$182,859	\$85,000	\$305,000	258.82%
FTA ADA - 5307	\$375,000	\$375,000	\$375,000	\$375,000	0.00%
5310 Cabs	\$140,187	\$186,794	\$175,000	\$180,000	2.86%
FTA Operating Income	\$3,030,000	\$2,595,000	\$2,595,000	\$2,595,000	0.00%
FTA Planning Income	\$192,524	\$67,800	\$0	\$0	0.00%
FTA 5311 Rural	\$18,199	\$17,461	\$11,176	\$12,000	7.37%
FTA Lease Funds	\$118,408	\$710,448	\$0	\$0	0.00%
TOTAL Non-Operating Revenue	\$22,335,019	\$23,611,280	\$23,538,509	\$25,034,088	6.38%
TOTAL REVENUE	\$29,349,212	\$30,748,037	\$31,739,509	\$33,135,488	4.42%

FY 2019 Operating Revenue
as a % of Total Revenue

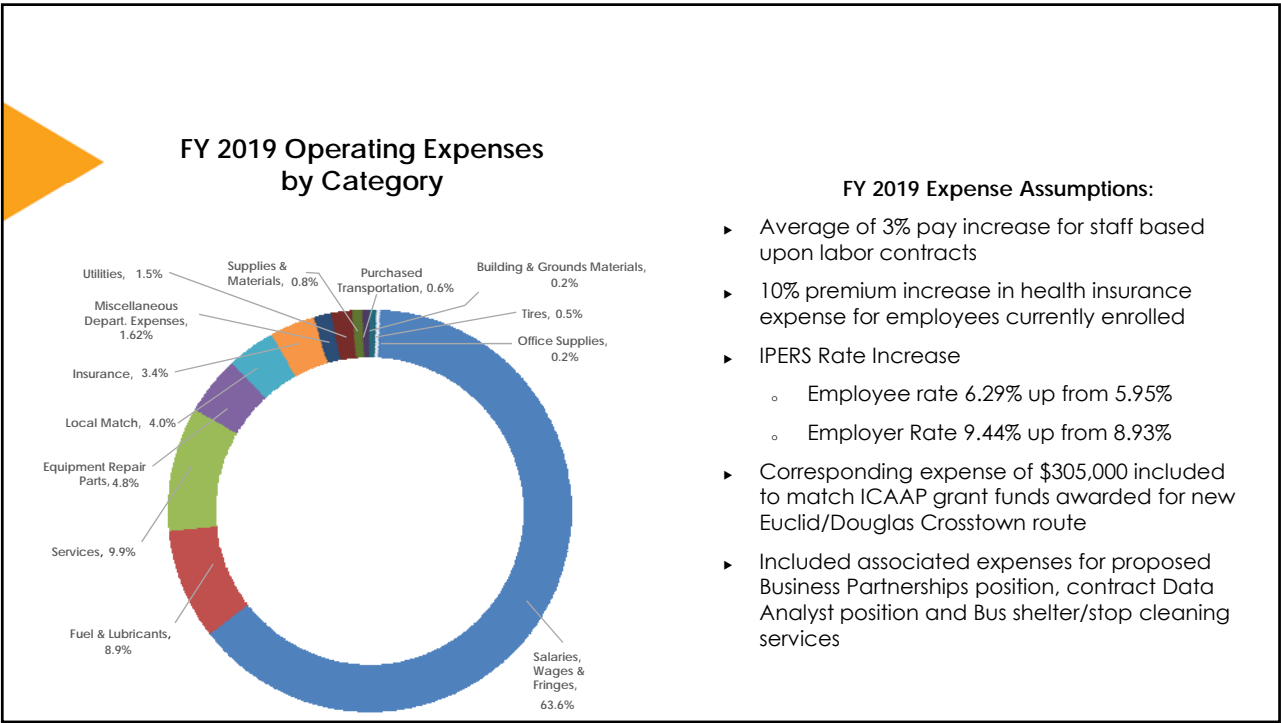


FY 2019 Revenue Assumptions:

- ▶ Residential rollback at
- ▶ 55.6209%, down from
- ▶ 56.9391% in FY2018
- ▶ Commercial rollback at 90%
- ▶ Multi-Residential rate at 78.75% and will continue to drop by 3.75% per year until 2021. Impact of \$201,500 in FY19 and approx. \$1M cumulatively
- ▶ Discontinuation of the City of Des Moines levy buydown of \$680,000, further increasing property tax revenue and eliminating MOA revenue
- ▶ Withdrawal of Carlisle, Elkhart, Mitchellville, Polk City and Runnells; reducing revenue by \$266,826
- ▶ \$164,616 held as debt service reserve for future debt obligations for the cities of Carlisle, Elkhart, Mitchellville, Polk City and Runnells
- ▶ No property tax levy increase
- ▶ \$305,000 ICAAP grant for the establishment of the Euclid/Douglas Crosstown route

Budget
Summary –
Operating
Expenses

	Actual FY 2016	Actual FY 2017	Adopted FY 2018	Budget FY 2019	% Change FY2018/ FY2019
Salaries, Wages and Fringes	\$17,522,471	\$18,646,918	\$20,098,185	\$20,957,012	4.27%
Services	\$2,951,166	\$3,086,852	\$2,584,280	\$3,276,551	26.79%
Building and Grounds Materials	\$124,262	\$226,773	\$90,000	\$61,000	(32.22%)
Office Supplies	\$72,709	\$128,306	\$55,700	\$56,700	1.80%
Fuels and Lubricants	\$2,176,481	\$1,758,128	\$3,125,433	\$2,949,000	(5.65%)
Tires	\$140,615	\$190,173	\$164,000	\$166,000	1.22%
Equipment Repair Parts	\$1,716,133	\$1,721,301	\$1,563,666	\$1,582,256	1.19%
Supplies and Materials	\$267,307	\$255,291	\$244,480	\$250,480	2.45%
Utilities	\$329,684	\$352,062	\$369,010	\$492,000	33.33%
Insurance	\$973,497	\$801,783	\$1,312,131	\$1,128,760	(13.98%)
Purchased Transportation	\$250,885	\$251,724	\$183,500	\$188,500	2.72%
Miscellaneous Depart. Expenses	\$1,163,044	\$696,217	\$467,450	\$534,520	14.35%
Local Match	\$1,152,463	\$1,170,971	\$1,481,674	\$1,333,541	(10.00%)
TOTAL EXPENSES	\$28,840,717	\$29,286,499	\$31,739,509	\$32,976,320	3.90%



ACTION ITEM

8B:	Procurement Policy and Procedures Manual Update
Action:	Approve updates to the DART Procurement Policy and Procedures Manual

Staff Resource: *Mike Tiedens, Procurement Manager*

Background:

- DART's Procurement Policy and Procedures Manual last updated and approved by the Commission in October 2014.
- Changes in Federal legislation as well as within the organization need to be updated in the policy.
 - FAST Act – passed in December, 2015
- The clean red-line update to the DART Procurement Policy and Procedures Manual is attached.

Summary of Changes:

- Methods of Procurement: Changes to the dollar thresholds for the methods of procurement.
- Buy America: The dollar threshold has changed and the domestic content quantity increases over the next few fiscal years.
- Organizational Change: Title change from General Manager to Chief Executive Officer.
- Vendor Identification: Project Manager in coordination with the Procurement Department will identify potential vendors
- Procurement Department Reference: Procurement Manager may delegate responsibilities to the Procurement Lead for low value and/or low risk projects
- Records for the Procurement File: Additional language to include supporting documents for the procurement file.
- Competition / DBE Participation: Change the requirement for one quote to be from a DBE firm to "as applicable".
- Identification of Contract Types: Expand the type of available contracts that DART could potentially enter into, depending on the product or service being purchased.
- Evaluation Panel: Project Manager and Procurement Manager shall select the Evaluation Panel for particular projects. (new)
- Payment Provisions: Add Milestone Payments as a potential payment provision. (new)
- Department Input for Projects: Add the Safety and IT Departments as potentially providing input as needed for particular projects.

ACTION ITEM

8B: Procurement Policy and Procedures Manual Update

- Small Purchases: Language clarifies the approval levels for different dollar amounts on contracts; no change from the current approval levels.
- Sealed Bids / DBE Opportunities: Clarify that the Procurement Department and other involved departments will identify DBE and/or small business opportunities, rather than a social equity plan for each project.
- Personal Conflict of Interest Forms: Spelling error correction.
- Update references to statutes, regulations and resources
- New form added: DBE and/or Subcontractor Compliance Checklist

Recommendation:

- Approve the updated DART Procurement Policy and Procedures Manual as presented.



MILES *Capital*

Investment Review

Des Moines Area Regional Transit Authority

Period: October 1, 2017 – December 31, 2017

1415 28th St., Suite 200 | West Des Moines, IA 50266 | 800.343.7084

Miles Capital

SEC-REGISTERED ADVISER

Iowa's largest independent firm,
founded in 1982

PUBLIC ENTITIES EXPERIENCE

Partnering since 1986, dedicated
to clients' success

TRUSTED ADVISER

Our top goal

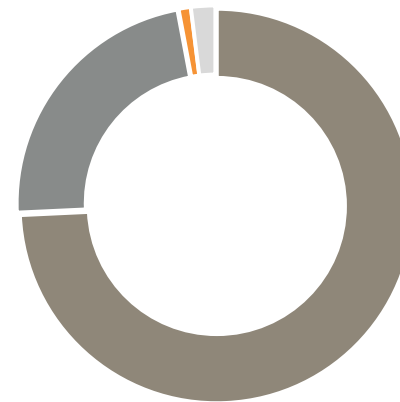
PROFESSIONAL TEAM

Credentialed, tenured
group collaborating to help
meet client needs

INNOVATIVE AND AGILE

Creating solutions to help meet
the changing environment

Assets Under Management
as of 12/31/17



- Insurance
- Local Government Entities
- Other Institutions
- Individual & Sub Advisory

<i>Insurance</i>	<i>74%</i>
<i>Local Government Entities</i>	<i>23%</i>
<i>Other Institutional</i>	<i>1%</i>
<i>Individual & Sub Advisory</i>	<i>2%</i>
<i>Total</i>	<i>\$4.8 Billion</i>

What is the Miles Managed Account Program?

<i>INVESTMENT CHALLENGES FOR PUBLIC ENTITIES</i>	<i>OUR SOLUTION: MILES MANAGED ACCOUNT A COMPREHENSIVE PORTFOLIO</i>
Limited In-house Investment Resources	Public Entity Investment Experience
Time and Administrative Challenges	Manage Operational Concerns, Provide Convenience
Investment Constraints – Low Yields & Little Income to Offset Tight Budgets	Focus on Helping to Maximize Every Dollar
Fluctuating Cash Flows – Knowing How Much to Invest	Diversified, Liquid, & Customized Portfolios
Identifying Compliant Investment Options	Conforms to Regulatory Framework

Your Challenge = Our Focus

DART REPORTING

Des Moines Area Regional Transit Authority

As of: December 31, 2017

Economic & Market Commentary:

As 2017 comes to a close, many economic indicators across both consumer and business sectors are at decade highs. It also appears momentum may accelerate thanks to some year-end fiscal policy that will take effect in 2018. The new tax policy is projected to add approximately 0.2-0.4 percent growth in 2018, mostly due to the corporate sector tax changes. Consumers continue to play a major role in the expansion as retail sales accelerated and the housing and equity markets set record highs. Throughout 2017 the corporate sector experienced robust growth and will likely experience benefits from the sizable cut in the corporate tax rate. A few of the potential risks to the current growth path include less accommodative postures by many global central banks, U.S mid-term elections, general risk asset valuation levels, and geo-political risk. Even with these risks, we are optimistic that growth in the U.S. and overseas should remain solid in 2018.

Strategy & Market Drivers:

Fixed income market returns were heavily influenced by Treasury interest rate movements for the quarter and year. Longer interest rates, as measured by the 10 year U.S. Treasury bond, rose during the fourth quarter but were range bound for much of the year and ended at 2.41 percent, nearly right on top of where they started the year. Short term interest rates, as measured by the 2 year Treasury bond, rose throughout the year and ended at 1.89 percent after starting the year at 1.19 percent. The largest influence on interest rates was the action of the Federal Reserve, which increased short term interest rates three times in 2017 and appears poised to raise rates three times in 2018.

Outlook:

We are cautiously optimistic for continued equity strength in 2018. Stock gains have come due to expanding economies, solid earnings, low inflation, cheap credit, and low interest rates. These factors are likely to continue into 2018. We have seen two consecutive quarters of GDP growth over 3 percent and 2018 earnings growth is estimated to be in the double digits for the year, so we are experiencing positive momentum. Tax reform should also provide a tailwind for equities. Large caps will likely see increased share repurchases, while small caps will have a lower rate at 20 percent, compared to their current average above 30 percent. However, valuations remain more supportive in emerging market and foreign developed equities than domestic markets. And geo-political risks and stretched valuations could create turbulence in the markets.

Des Moines Area Regional Transit Authority

As of: December 31, 2017

Portfolio Appraisal

Cusip/Ticker	Quantity	Security Name	Rating	Coupon	Maturity	Purchase Cost		Market Value		% of Assets	Estimated Annual Income	Yield
						Average Cost	Total Cost	Price	Value			
Short Term Liquidity												
Cash/Cash Equivalents												
GOIXX	1,068	FEDERATED GOVT OBLI FD-IS	NR	1.027		1.00	1,068	1.00	1,068	0.0	11	1.15
SA0004000	5,337,896	FIRST NATIONAL BANK OMAHA (ICS) - SAVINGS	NR	1.557		100.00	5,337,896	100.00	5,337,896	72.8	83,200	1.61
CD1005783	245,000	BANK IOWA CD	NR	1.270	4/11/2018	100.00	245,000	100.00	245,000	3.3	3,112	1.27
CD1005791	754,519	STATE SAVINGS BANK CD	NR	1.200	4/12/2018	100.00	754,519	100.00	754,519	10.3	9,054	1.19
CD1005785	1,000,000	BANKERS TRUST CD	NR	1.280	11/9/2018	100.00	1,000,000	100.00	1,000,000	13.6	12,800	1.28
TOTAL Cash/Cash Equivalents							7,338,483		7,338,483	100.0	108,177	1.51
TOTAL PORTFOLIO							7,338,483		7,338,483			1.51
TOTAL ACCRUED INCOME									19,157			
TOTAL PORTFOLIO + ACCRUED INCOME									7,357,640			

Estimated Annual Yield (EAY) as shown is calculated using Yield to Maturity on Market Price (YTM) for fixed income securities and Current Yield for equity securities. Cost basis information should not be relied upon for tax purposes."

Des Moines Area Regional Transit Authority

As of: December 31, 2017

Portfolio Performance

TOTAL RETURN (%)	QTD	YTD	1-year	3-year	5-year	Since Inception*
(periods greater than 12 months annualized)						
Client Portfolio (Gross)	0.32	1.11	1.11	—	—	0.91
Client Portfolio (Net)	0.31	1.03	1.03	—	—	0.85

*Since Inception date: April 1, 2016

Des Moines Area Regional Transit Authority:

Periods greater than one year are annualized. Past performance is not indicative of future performance. All performance figures include dividends and income, but do not include management fees.

Des Moines Area Regional Transit Authority

As of: December 31, 2017

Account Activity Summary

Portfolio Value on 09/30/2017	\$3,038,014
Deposits/Withdrawals	\$4,300,108
Management Fees	(\$560)
Income	\$23,038
Appreciation	0.00
Change In Accrued Income	(\$2,960)
Portfolio Value on 12/31/2017	\$7,357,640

Purchases & Sales

Trade Date	Settle Date	Quantity	Security	Ticker	Unit Price	Amount
Short Term Liquidity						
Purchase						
10/02/2017	10/02/2017	15	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$14.50
10/09/2017	10/09/2017	500,000	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$500,000.00
10/10/2017	10/10/2017	7,507	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$7,506.85
10/11/2017	10/11/2017	500,000	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$500,000.00
10/11/2017	10/11/2017	3,968	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$3,968.22
10/12/2017	10/12/2017	0	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$0.40
10/12/2017	10/12/2017	4,519	STATE SAVINGS BANK CD	CD1005791	\$100.00	\$4,519.12
10/12/2017	10/12/2017	1,030,000	FIRST NATIONAL BANK OMAHA (ICS) - SAVINGS	SA0004000	\$100.00	\$1,030,000.00
10/27/2017	10/27/2017	4,000,000	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$4,000,000.00
10/30/2017	10/30/2017	4,000,000	FIRST NATIONAL BANK OMAHA (ICS) - SAVINGS	SA0004000	\$100.00	\$4,000,000.00
10/31/2017	10/31/2017	810	FIRST NATIONAL BANK OMAHA (ICS) - SAVINGS	SA0004000	\$100.00	\$809.50
11/01/2017	11/01/2017	330	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$330.08
11/17/2017	11/17/2017	300,000	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$300,000.00
11/21/2017	11/21/2017	300,000	FIRST NATIONAL BANK OMAHA (ICS) - SAVINGS	SA0004000	\$100.00	\$300,000.00
11/30/2017	11/30/2017	5,858	FIRST NATIONAL BANK OMAHA (ICS) - SAVINGS	SA0004000	\$100.00	\$5,857.54
12/01/2017	12/01/2017	32	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$31.90
TOTAL Purchases						\$10,653,038.11

Des Moines Area Regional Transit Authority

As of: December 31, 2017

Purchases & Sales

	Trade Date	Settle Date	Quantity	Security	Ticker	Unit Price	Amount
Sell							
	10/12/2017	10/12/2017	1,030,000	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$1,030,000.00
	10/25/2017	10/25/2017	83	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$83.33
	10/30/2017	10/30/2017	4,000,000	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$4,000,000.00
	11/21/2017	11/21/2017	300,000	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$300,000.00
	11/27/2017	11/27/2017	186	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$185.80
	12/26/2017	12/26/2017	183	FEDERATED GOVT OBLI FD-IS	GOIXX	\$1.00	\$183.32
				TOTAL Sales			\$5,330,452.45
Maturity							
	10/07/2017	10/07/2017	500,000	FREEDOM FINANCIAL CD	CD1004360	\$100.00	\$500,000.00
	10/11/2017	10/11/2017	500,000	STATE SAVINGS BANK CD	CD1005490	\$100.00	\$500,000.00
				TOTAL Maturities			\$1,000,000.00

Des Moines Area Regional Transit Authority

As of: December 31, 2017

Disclosures:

The information provided in these reports is confidential and intended for existing client use only. All information contained herein is believed to be correct, but accuracy cannot be guaranteed and should not be relied upon for legal or tax reporting purposes. These reports are not intended for clients to use as a replacement for custodial statements, which should be considered the official record. Miles Capital encourages clients to compare and verify the information in this report with the custodial statement.

All expressions of opinion and predictions in this report are subject to change without notice. This report is not intended to be nor should it be relied upon in any way as a forecast or guarantee of future events regarding a particular investment or the markets in general. The information in this document derived from sources other than Miles Capital is believed to be accurate and is not independently verified nor guaranteed to be accurate or valid. If shown in this report, security and portfolio level analytics with respect to fixed income portfolios are derived opinions and market assumptions made by Miles Capital. Some of the assumptions with respect to fixed income portfolios and the underlying investments include, but are not limited to, expected levels of volatility, prepayment rates, default rates and recovery rates of certain assets held in the portfolio. Future market experience may differ from these opinions and assumptions.

Past performance is not a guarantee of future results. As with all strategies, there is a risk of loss of all or portion of the amount invested.

No chart, graph or formula can by itself determine which securities an investor should buy or sell.

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Estimated Annual Income (EAI), when available, is used in this report to reflect the amount a client would earn on a security if its current position and related income remained consistent for a year. EAI reflects only the income generated by an investment. It does not reflect changes in its price, which may fluctuate.

Estimated Annual Yield (EAY), when available, is used in this report to reflect the current EAI divided by the current value of the security as of the statement closing date.

EAI and EAY are estimates and the actual income and yield may be lower or higher than the estimated amounts. The information used to derive these estimates is obtained from various outside vendors; Miles Capital is not responsible for estimated annual income and yields which are either missing or incorrect.

Miles Capital Contact



Amy Mitchell

DIRECTOR, PUBLIC FUND SERVICES & ADMINISTRATION

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DISCUSSION ITEM

9C: Quarterly Safety Report – 2nd Quarter FY 2018

Staff Resource: Patrick Daly, Operations Manager – Safety

Analysis of accidents for the 2nd Quarter of FY2018:

ACCIDENTS BY ROUTE:	2 nd QTR FY18	2 nd QTR FY17	YTD FY18	YTD FY17
#1 – FAIRGROUNDS	1	2	2	5
#3 – UNIVERSITY	5	2	7	5
#4 – 14TH	0	0	2	0
#5 – FRANKLIN AVE/JOHNSTON	0	0	0	1
#6 – INDIANOLA AVE	1	1	2	1
#7 – SW 9 th ST	1	4	1	4
#8 – FLEUR DR	1	1	2	1
#9 – EXPRESSES	4	3	8	9
#10 – EAST UNIVERSITY	0	0	0	0
#11 – INGERSOLL/VALLEY JCT	0	0	1	0
#12 – ON PROPERTY	8	2	15	7
#13 – PARK AVE	0	0	0	0
#14 – BEAVER AVE.	0	2	1	6
#15 – 6 th AVE.	2	2	5	3
#16 – DOUGLAS AVE	2	1	3	2
#17 – HUBBELL AVE/ALTOONA	1	1	3	2
#52 – VALLEY WEST/JORDAN CR	1	0	2	2
#60 – INGERSOLL/UNIVERSITY	2	4	2	4
#72 – WDM/CLIVE FLEX	2	0	3	0
#73 – URBANDALE/WHTS FLEX	0	1	0	1
#74 – NW URBANDALE FLEW	0	0	1	0
#40 - LINK	1	1	1	1
#42 - STATE CAPITAL/D-LINE	0	0	3	2
#SS - SCHOOL ROUTES	0	1	1	1
#20 - PARATRANSIT	5	6	8	16
R - RIDESHARE	2	1	2	3
A - ADMIN	0	0	1	0
M – MAINTENANCE	0	1	0	1
SF – STATE FAIR	0	0	1	2
Training	1	0	1	0
TAXI	1		1	
TOTALS	40	36	78	79

DISCUSSION ITEM
9C: Quarterly Safety Report – 2nd Quarter FY 2018



ACCIDENTS BY TYPE:	2 nd QTR	2 nd QTR	YTD	YTD
	<u>FY18</u>	<u>FY17</u>	<u>FY18</u>	<u>FY17</u>
BUS INTO FIXED OBJECT	25	13	39	32
PERSONAL INJURY	0	0	0	0
BUS INTO VEHICLE	4	4	9	12
VEHICLE INTO BUS	10	18	28	33
OTHER	1	0	2	1
STRUCK ANIMAL	0	0	0	0
MAINTENANCE	0	1	0	1
VANDALISM	0	0	0	0
TOTALS	40	36	78	79

ACCIDENTS BY CHARGEABILITY	2 nd QTR	2 nd QTR	YTD	YTD
CODE:	<u>FY18</u>	<u>FY17</u>	<u>FY18</u>	<u>FY17</u>
NON PREVENTABLE	11	19	32	41
PREVENTABLE - OPERATOR	18	17	28	38
PREVENTABLE - SYSTEM	1	0	1	0
ON PROPERTY	8	*A	15	*A
UNDETERMINED	2	0	2	0
TOTALS	40	36	78	79

*A - These accidents were previously included in the Preventable category

ACCIDENTS BY SERVICE	2 nd QTR	2 nd QTR	YTD	YTD
	<u>FY18</u>	<u>FY17</u>	<u>FY18</u>	<u>FY17</u>
FIXED ROUTE	26	28	59	57
PARATRANSIT	5	6	8	16
RIDESHARE	2	1	2	3
ADMINISTRATION	0	0	1	0
MAINTENANCE	5	1	5	1
STATE FAIR	0	0	1	2
TRAINING	1	0	1	0
TAXI	1	0	1	0
TOTALS	40	36	78	79

DISCUSSION ITEM



9D: DART Commission Long-Term Planning

Staff Resource: Elizabeth Presutti, Chief Executive Officer

- A presentation will be provided outlining the approach and schedule for accomplishing the long-range planning efforts by the DART Commission.



System Summary Performance Report

December 2017

	June 2017	July 2017	August 2017	September 2017	October 2017	November 2017	December 2017	December 2016	December % Change FY18	FY18 December YTD	FY17 December YTD	YTD % Change FY18
Fixed Route												
Passengers	287,355	265,741	554,545	366,183	383,886	353,416	307,572	315,266	(2.44%)	2,231,343	2,262,004	(1.36%)
Mobile Ticketing Ridership	0	0	264	254	1,160	7,066	7,786	0	0.00%	16,530	0	0.00%
OTT Ridership	19,236	18,154	20,542	20,390	21,931	21,284	19,312	20,199	(4.39%)	121,613	117,997	3.06%
Unlimited Access Ridership	27,011	23,968	28,678	28,746	28,198	26,099	21,443	25,087	(14.53%)	157,132	168,867	(6.95%)
Bike Rack Usage	5,995	6,160	7,141	6,369	5,652	4,386	3,203	2,647	21.00%	32,911	31,921	3.10%
Passengers Per Revenue Hour	15.8	15.4	24.7	21.0	20.4	19.8	17.6	17.0	3.72%	20.1	20.2	(0.78%)
Average Passenger Trip Length	4.42	4.55	4.43	4.47	4.43	4.44	4.42	4.37	1.22%	4.45	4.37	1.91%
Complaints Per 100,000 Passengers	11.48	12.42	14.25	21.30	19.54	18.67	12.03	10.47	14.93%	16.49	10.48	57.41%
Commendations Per 100,000 Passengers	3.13	3.39	1.62	2.46	1.82	0.85	0.33	1.27	(74.38%)	1.70	1.46	16.73%
On-Time Performance	81.70%	82.00%	76.97%	77.69%	79.20%	83.23%	84.19%	83.21%	1.17%	80.53%	82.67%	(2.59%)
Accident Frequency Rate by Service:												
Preventable/100,000 Miles	3.26	0.38	1.38	0.74	2.73	2.52	1.48	0.00	0.00%	1.56	1.28	21.51%
Non-Preventable/100,000 Miles	2.17	2.30	3.31	1.85	0.68	1.08	1.48	2.09	(29.30%)	1.85	2.33	(20.80%)
Maintenance:												
Total Service Miles	276,137.8	260,394.5	362,040.4	270,261.9	292,939.7	277,902.1	270,462.1	286,819.5	(5.70%)	1,734,000.7	1,716,697.2	1.01%
Roadcalls/100,000 Miles	31.51	43.01	30.94	21.46	19.12	14.39	7.39	33.82	(78.13%)	22.95	36.12	(36.45%)
Active Vehicles In Fleet	126	126	123	123	123	123	123	127	(3.15%)	124	126	(1.72%)
Paratransit												
Passengers	9,233	8,330	9,423	8,914	9,589	8,427	7,766	9,302	(16.51%)	52,449	54,988	(4.62%)
Passengers Per Revenue Hour	2.4	2.4	2.4	2.5	2.4	2.3	2.3	2.5	(10.20%)	2.4	2.6	(8.14%)
Average Passenger Trip Length	8.88	8.99	9.01	9.06	9.07	9.09	9.07	8.89	1.99%	9.05	8.88	1.85%
Complaints Per 100,000 Passengers	64.98	120.05	84.90	100.96	83.43	83.07	193.15	75.25	156.67%	108.68	45.46	139.04%
Commendations Per 100,000 Passengers	10.83	24.01	10.61	33.65	0.00	0.00	0.00	0.00	0.00%	11.44	0.00	0.00%
On-Time Performance	85.82%	86.50%	87.25%	83.86%	83.97%	83.68%	85.23%	92.92%	(8.28%)	85.10%	92.84%	(8.33%)
Accident Frequency Rate by Service:												
Preventable/100,000 Miles	1.28	1.34	0.00	0.00	1.30	0.00	1.54	1.37	12.03%	0.69	2.11	(67.42%)
Non-Preventable/100,000 Miles	2.57	1.34	1.27	0.00	1.30	0.00	0.00	0.00	0.00%	0.69	1.64	(58.12%)
Maintenance:												
Total Service Miles	77,859.2	74,451.3	79,006.7	72,027.5	76,780.0	69,367.4	65,128.3	72,968.4	(10.74%)	436,761.2	426,841.7	2.32%
Roadcalls/100,000 Miles	14.13	4.03	10.13	11.11	5.21	10.09	1.54	8.22	(81.33%)	7.10	9.84	(27.87%)
Active Vehicles In Fleet	25	25	23	23	23	23	23	22	4.55%	23	22	5.26%
Rideshare												
Passengers	19,195	16,083	19,429	17,612	19,518	19,205	17,832	13,862	28.64%	109,679	91,638	19.69%
Passengers Per Revenue Hour	5.5	5.1	5.5	5.4	5.4	6.4	6.5	4.9	31.72%	5.7	5.1	12.85%
Rideshare Customers	614	630	633	636	657	684	713	560	27.32%	659	559	17.86%
Rideshare Vans In Circulation	95	95	95	93	95	97	97	84	15.48%	95	84	13.72%
Average Passenger Trip Length	38.66	39.17	38.76	38.64	38.40	38.07	38.53	40.01	(3.70%)	38.58	40.13	(3.86%)
Complaints Per 100,000 Passengers	0.00	12.44	0.00	0.00	0.00	0.00	0.00	0.00	0.00%	1.82	0.00	0.00%
Commendations Per 100,000 Passengers	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00%	0.00	0.00	0.00%
Accident Frequency Rate by Service:												
Preventable/100,000 Miles	0.00	0.00	0.00	0.00	0.00	0.00	0.69	0.00	0.00%	0.11	0.25	(56.19%)
Non-Preventable/100,000 Miles	0.00	0.00	0.00	0.00	0.00	0.00	0.69	0.00	0.00%	0.11	0.25	(56.19%)
Maintenance:												
Total Service Miles	157,781.0	139,814.0	166,241.0	142,285.0	163,547.0	153,024.5	144,372.1	126,431.8	14.19%	909,283.6	796,432.4	14.17%
Active Vehicles In Fleet	109	109	109	109	109	109	107	108	(0.93%)	109	108	0.62%
System Total												
Farebox Recovery Ratio	13.42%	18.34%	25.70%	23.31%	22.97%	22.66%	20.27%	25.53%	(20.60%)	22.28%	26.33%	(15.37%)



System Performance Ridership Report

December 2017

	June 2017	July 2017	August 2017	September 2017	October 2017	November 2017	December 2017	December 2016	December % Change FY18	FY18 December YTD	FY17 December YTD	YTD % Change FY18
Fixed Route	287,355	265,741	554,545	366,183	383,886	353,416	307,572	315,266	(2.44%)	2,231,343	2,262,004	(1.36%)
1. Local:												
#1 - Fairgrounds	13,540	13,061	247,010	19,810	20,612	18,083	15,627	15,834	(1.31%)	334,203	342,301	(2.37%)
#3 - University	30,326	28,515	31,544	32,331	33,378	32,409	28,843	29,250	(1.39%)	187,020	203,963	(8.31%)
#4 - E. 14th	15,337	14,049	16,396	16,010	16,152	16,062	13,742	15,652	(12.20%)	92,411	98,909	(6.57%)
#5 - Franklin Ave	6,574	5,090	7,164	9,374	11,016	11,491	8,983	7,675	17.04%	53,118	47,340	12.21%
#6 - Indianola Ave	21,306	19,925	26,008	30,459	32,019	29,462	25,578	26,793	(4.53%)	163,451	177,599	(7.97%)
#7 - SW 9th St	27,392	24,519	30,791	38,564	41,572	37,203	33,108	31,235	6.00%	205,757	194,299	5.90%
#8 - Fleur Dr	2,393	2,169	3,792	5,798	6,084	5,692	4,176	4,324	(3.42%)	27,711	25,320	9.44%
#10 - East University	2,320	1,933	2,902	3,299	3,533	3,078	2,778	2,455	13.16%	17,523	3,249	439.34%
#11 - Ingersoll Ave	2,151	1,594	2,031	1,924	2,019	1,780	1,476	1,820	(18.90%)	10,824	13,035	(16.96%)
#13 - Evergreen/SE Park Ave	738	623	3,170	7,873	8,715	7,828	5,891	6,211	(5.15%)	34,100	33,367	2.20%
#14 - Beaver Ave	15,335	13,847	18,176	22,293	23,844	21,466	18,438	18,636	(1.06%)	118,064	115,302	2.40%
#15 - 6th Ave	18,847	17,834	21,920	27,165	28,820	26,546	23,306	22,731	2.53%	145,591	142,642	2.07%
#16 - Douglas Ave	27,678	25,212	31,302	37,557	38,225	36,228	31,591	33,443	(5.54%)	200,115	208,973	(4.24%)
#17 - Hubbell Ave	22,344	20,920	23,365	23,307	26,596	23,709	22,076	21,450	2.92%	139,973	140,863	(0.63%)
#52 - Valley West/Jordan Creek	13,650	12,939	14,816	14,670	14,781	13,424	13,505	14,177	(4.74%)	84,135	86,886	(3.17%)
#60 - Ingersoll/University	28,898	26,097	31,299	34,862	36,851	33,414	28,870	28,368	1.77%	191,393	191,217	0.09%
2. Shuttle:												
Dline	13,828	15,017	16,165	16,583	14,875	12,822	11,345	11,615	(2.32%)	86,807	80,835	7.39%
Link Shuttle	1,028	771	714	632	667	620	523	879	(40.50%)	3,927	5,914	(33.60%)
3. Express:												
#91 - Merle Hay Express	1,280	1,065	1,380	1,056	0	0	0	951	(100.00%)	3,501	5,894	(40.60%)
#92 - Hickman Express	2,044	1,673	2,368	2,128	2,502	2,363	1,870	2,290	(18.34%)	12,904	15,047	(14.24%)
#93 - NW 86th Express	2,826	2,595	3,061	2,546	2,811	2,587	2,299	2,941	(21.83%)	15,899	20,299	(21.68%)
#94 - Westown	1,068	1,041	1,265	1,023	1,100	1,383	815	875	(6.86%)	6,627	7,081	(6.41%)
#95 - Vista	1,344	1,144	1,308	1,132	1,123	880	744	1,084	(31.37%)	6,331	8,293	(23.66%)
#96 - E.P. True	2,346	2,190	2,500	2,097	2,403	1,985	1,618	1,954	(17.20%)	12,793	13,234	(3.33%)
#98 - Ankeny	6,422	5,667	6,799	6,617	7,122	6,477	5,191	6,206	(16.36%)	37,873	39,968	(5.24%)
#99 - Altoona	1,557	1,430	1,582	1,608	1,616	1,541	1,106	1,654	(33.13%)	8,883	9,924	(10.49%)
4. Flex:												
#72 Flex: West Des Moines/Clive	3,663	3,864	4,512	4,239	4,194	3,737	3,184	3,390	(6.08%)	23,730	21,736	9.17%
#73 Flex: Urbandale/Windsor Heights	198	182	213	211	245	193	172	192	(10.42%)	1,216	1,304	(6.75%)
#74 Flex: NW Urbandale	570	538	677	744	756	623	471	575	(18.09%)	3,809	3,202	18.96%
5. On Call:												
On-Call: Ankeny	133	77	113	121	106	112	83	209	(60.29%)	612	1,300	(52.92%)
On-Call: Johnston/Grimes	127	104	138	98	99	170	133	215	(38.14%)	742	1,494	(50.33%)
On-Call: Regional	92	56	64	52	50	48	30	182	(83.52%)	300	1,214	(75.29%)
Paratransit	9,233	8,330	9,423	8,914	9,589	8,427	7,766	9,302	(16.51%)	52,449	54,988	(4.62%)
Cab	799	717	783	989	1,015	1,031	975	897	8.70%	5,510	5,366	2.68%
Bus/Van	8,434	7,613	8,640	7,925	8,574	7,396	6,791	8,405	(19.20%)	46,939	49,622	(5.41%)
Rideshare	19,195	16,083	19,429	17,612	19,518	19,205	17,832	13,862	28.64%	109,679	91,638	19.69%
Total Ridership	315,783	290,154	583,397	392,709	412,993	381,048	333,170	338,430	(1.55%)	2,393,471	2,408,630	(0.63%)

MONTHLY REPORT



10A: Operations

Staff Resources: *Tim Sanderson, Chief Operating Officer*

- In January, Pat Halsey DART's Building Supervisor for DART Central Station was redeployed with the Marines for the second time in a year. On January 17, DART staff held a small function in order to have the opportunity to wish him and thank him for his service. We are looking forward to his safe return.
- In early January, Tim Sanderson attended the Transportation Research Board's Annual Conference. There was a great deal of discussion and information surrounding the future outlook and impact of autonomous vehicles of cities and transit agencies. A number of different perspectives were shared and excellent insight into this exciting technology was gained.
- The Operations Team continues to work on the Battery Electric Bus project.
 - This includes:
 1. Working with Proterra to finalize pricing. This entails reviewing and selecting the parts and equipment installed on the bus to ensure that they are compatible with our procedures and systems to the greatest extent possible.
 2. Awaiting word on the status of the DERA application which, if successful will allow for seven buses to be purchased.
 3. Meeting with our partner in this project, MidAmerican Energy in order to coordinate activities.
 4. Working with our consultants on designing the infrastructure required to accommodate these buses
 - Based on our progress to date, we anticipate an action item on the purchase of the vehicles at the March Commission Meeting.

MONTHLY REPORT

10B: External Affairs Team Report

Staff Resources: Amanda Wanke, Chief External Affairs Officer

External Affairs – All Team

February Service Change: DART's first service change of 2018 is scheduled for Sunday, Feb. 4 and includes changes for Local Routes 1, 4, 5 and 17. Local Routes 1 and 4 will be re-routed on inbound trips to return to travel over the Grand Avenue Bridge in downtown Des Moines. In addition to that change, Local Route 4 will travel further north to 58th Avenue on select trips to travel to DART's new Unlimited Access partner, Dee Zee Manufacturing. Local Route 5 is re-routing to travel on NW 70th in Johnston and will no longer travel on Morningside Drive. Local Route 17 is undergoing schedule changes, and will not have any map changes. Communications about this service change were shared with riders beginning on Jan. 17, 2018.

Veterans Ride for Free Promotional Month: DART and Polk County Veterans Affairs have partnered together to provide a month-long promotion in May. During this time veterans will be able to ride DART for free, and the VA will reimburse DART for the rides. Staff from area organizations are working together to ensure that as many veterans as possible are aware of the program.

Deer Ridge Community Shuttle: Staff are finalizing a schedule for the Deer Ridge Community Shuttle. The shuttle will begin Feb. 26 and will run at least two days a week with several trips to the Windsor Heights Wal-Mart where riders can transfer to the Route 3 and/or access the many services at Wal-Mart and in the Windsor Heights area.

Marketing and Communications – Erin Hockman, Marketing and Communications Manager

Wi-Fi on All Buses – Wi-Fi launched on every bus, every route, on Tuesday, Jan. 2, 2018. In the first two weeks, riders connected 8,724 times to the Wi-Fi, for an average of 4,362/week. This is an increase of 3,000 average weekly connections, compared to 1,300 connections during the 45-week Wi-Fi pilot in 2017. After the launch, DART also received media coverage from more than 10 outlets, including KCCI, We Are Iowa, the *Des Moines Register* and the *Business Record*.

MyDART Trip Planner Pilot – The marketing team organized a 2-week pilot to test the MyDART app trip planner, which will launch to all riders in late-spring 2018. The pilot began on Monday, Jan. 29 and will run through Sunday, Feb. 11. Participants are given weekly tasks and asked to complete a survey at the end of the pilot.

Dee Zee Manufacturing Unlimited Access – As of Feb. 4, 2018, Dee Zee manufacturing employees can ride free as the company is now part of DART's Unlimited Access Program. The marketing team has worked closely with Dee Zee to provide information to its employees. Dee Zee sent out a post card to each employee, posted in breakrooms and shared in their bi-monthly newsletter. DART and Dee Zee also worked together on a press release and grab n' go's held in Dee Zee breakrooms in late-January.

DMARC Mobile Food Pantry – DART will host the Des Moines Area Religious Council's (DMARC) Mobile Food Pantry every first and third Thursday, beginning March 1, 2018. The mobile pantry will be placed at the far south end of DART Central Station, where DART supervisor vehicles are parked. This pantry gives riders an opportunity to pick up food without having to travel to one of DMARC's food pantries. The marketing team will promote to riders through signage at DART Central Station, email, social media and on-the-bus tactics.

MONTHLY REPORT

10B: External Affairs

APTA AdWheels: DART was notified on Thursday, Jan. 18 that it was a first place recipient for a 2017 APTA Ad Wheel Award for its DART Forward 2035 Year Five Update Campaign. DART was selected as the winner in the Best Marketing and Communications Educational Effort under the comprehensive campaign category and was judged amongst several other US transit agencies with between 4 and 20 million rides per year. DART's External Affairs Officer Amanda Wanke will be presented with a first place certificate during the APTA Marketing and Communications Workshop in San Francisco, CA in Feb. 2018. DART's entry is automatically entered into a competition for the Grand Prize amongst all APTA members. Notification for that award will occur in spring 2018.

Business Development – DART's business partnerships coordinator held several meetings with area employers to discuss transportation, including:

- Grab and Go with Voya Financial
- Implemented Dee Zee Unlimited Access program, including on site benefits education with Dee Zee employees.
- Attended the One Economy Summit at Drake University.

Meetings and contract renewals with current Unlimited Access partners are ongoing.

Marketing Analytics Report

Metric	July 2017	Aug. 2017	Sept. 2017	Oct. 2017	Nov. 2017	Dec. 2017	Dec. 2016	% Change Year Prior
MyDART App Accounts	n/a	n/a	n/a	655	1049	1287	n/a	n/a
Website Unique Visitors	30,934	38,943	33,616	35,487	30,299	28,421	29,136	-2.52%
Facebook Likes	2,844	2,927	3,011	3,039	3,061	3,069	2,645	13.82%
Twitter Followers	1,934	1,953	1,961	1,976	1,988	1,992	1,831	8.08%
Email Subscribers	4,930	4,940	4,980	5,470	5,480	5,770	4,220	26.86%
Trip Plans	6,852	9,678	8,662	8,515	6,453	5,274	7,905	-49.89%
Next Bus	2,846	3,618	3,418	3,665	3,574	3,623	2,889	20.26%
Schedules	2,155	3,481	2,701	2,319	1,978	1,817	1,475	18.82%
RideTime App	31,530	36,643	34,298	38,170	37,331	35,067	30,395	13.32%
SMS Text Messaging	55,761	65,834	66,685	87,471	76,266	79,234	56,641	28.51%
IVR	8,457	10,180	9,963	9,268	8,440	8,119	7,889	2.83%

MyDART App Report

Metric	Oct. 2017	Nov. 2017	Dec. 2017	TOTAL
Downloads	1,012	580	341	1,933
iOS	437	250	133	820
Android	575	330	208	1,113
Accounts Created	655	394	238	1,287
Orders Placed	428	927	1,099	2,454
Passes Purchased	550	1,254	1,381	3,185
Revenue	\$4,645.35	\$8,846.65	\$10,023.00	\$23,515.00

MONTHLY REPORT
10B: External Affairs



Customer Experience – Alison Walding, Customer Experience Manager

Website Communication and Messages

- Bus Stop/Shelter Requests = 1
- Contact/Feedback Form = 32
- Voicemails = 88
- Required response = 3 (03%)

Total Calls for December 2017

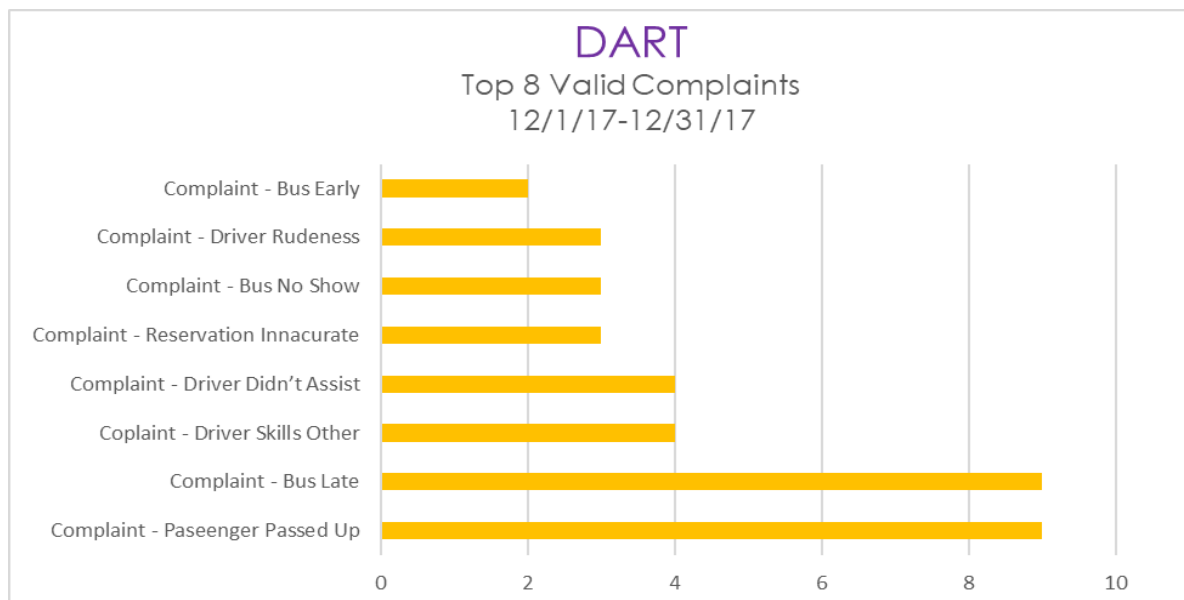
- Schedule Information – 5294
- Paratransit - 3466
- Spanish Line – 37
- Receptionist – 293
- RideShare – 138

Mobility Coordination

Mobility Coordinator Activities December 2017

- How to Ride Fort DSM (49)
- How to Ride Bernie Lorenz (17)
- How to Ride Fresh Start Women's Facility (5)
- How to Ride Bridges of Iowa (7)
- How to Ride House of Mercy (9)
- How to Ride VA Amputee Support Group (8)
- How to Ride at CISS for Veteran clients (12)

Top 8 Valid Complaints (per 100,000 passengers) as of December 31, 2017



MONTHLY REPORT
10B: External Affairs



RideShare

December 2017

- Received commission approval on van donation recommendations and turned vans over to recipients.
- Provided 1 driver training
- Added several new vans to the road including the new River Bend Industries van

Planning – Emily McMahon, Interim Planning Manager

Schedule Analysis: Staff continue to work with Transportation, Management & Design (TMD) to do a review of DART's bus schedules in order to identify opportunities to increase ridership and customer satisfaction through schedule changes, as well as opportunities for efficiencies. The process will take several months. Recommendations will likely be brought to the Commission in spring 2018.

Upcoming Major Service Changes: Staff are preparing for the June and August service changes. With the Des Moines Public Schools bell times changes, the implementation of the Euclid-Douglas Crosstown, and potential other changes, August is shaping up to be a fairly major change. Updates will be brought to the Commission throughout the spring.

Long-Term Shelter Plan: Staff are preparing a long-term shelter plan that identifies potential future locations for shelters, funding needed, and an implementation timeline.

MONTHLY REPORT

10C: Procurement

Staff Resource: Mike Tiedens, Procurement Manager

Upcoming Procurements:

Janitorial Services – DART is seeking a qualified Contractor to provide Janitorial and miscellaneous housekeeping services at DART Central Station and 1100 DART Way. The services will ensure the cleanliness and safety of the interior and exterior of the facilities. Services will include, but not be limited to cleaning of surfaces and windows in all areas, removal of trash and debris and periodic heavier cleaning as necessary.

- Request for Proposal to be published in February 2018

Contracts and Task Orders Approved Recently:

Substance Architecture, On-Call Architecture and Engineering Services Contract

- Facility Assessment – Phase I – Tasks include, but are not limited to assessing the condition of the existing Operations and Maintenance Facility at 1100 DART Way. Potential areas of focus are interior, exterior, fire/life safety, ADA, HVAC, electrical, plumbing, fire protection, building code compliance, security and data integration.
 - Task order was approved for the \$70,283.80
- Heat Pump Design – Tasks include, but are not limited to assessing the existing temperature and air flow conditions in the lobby at DART Central Station and recommending and designing a solution.
 - Task order was approved for the amount Not to Exceed \$9,500.00
- Concrete Floor – DART Central Station – Tasks include, but are not limited to preparing and designing the restoration of the floor in the public lobby at DART Central Station. Work will include buffing the existing floor and application of a new clear epoxy coating.
 - Task order was approved for the \$1,500.00

Fuel Tank Gauge Replacement – DART solicited bids for a contractor to provide services and equipment to replace failing in-ground tank equipment for tracking fuel.

- The winning proposer was Seneca Companies and the contract price is \$17,036.80

Other Notes:

Procurement Training – Throughout the month of February, the DART Procurement Department will be holding procurement training sessions for the administrative staff. The training focuses on high level procurement requirements and information as well as resources available to assist in purchasing projects and activities.

MONTHLY REPORT
10C: Procurement



Future Procurements:

- Heavy Duty Battery Electric Bus
- RideShare Vans & Minivans
- Janitorial Services (both locations)
- 5 Medium Duty Buses (4 Paratransit, 1 On Call)
- Employment Services
- Printing Services
- Data Management System (TransTrack) Maintenance Extension
- Bus Wash
- Heat Pump Replacement – DCS
- Portable Maintenance Lift

MONTHLY REPORT



10D: Chief Executive Officer

Staff Resource: Elizabeth Presutti, Chief Executive Officer

- **DART Executive Committee:** The DART Executive Committee met on Friday, January 26th. The discussion items presented during the meeting included: DART Long-Term Planning, upcoming Audit Services RFP and an update from DART's Legal Counsel.
The next DART Executive Committee meeting is scheduled for February 16, 2018 at 8:00 am.
- **New Commissioner Appointments:** With the City Council transitions this January, DART has had several new appointments to the Commission either in the Commissioner or alternate capacity:
 - City of Des Moines: Joshua Mandelbaum (Alternate)
 - City of Mitchellville: Mayor Dean Brand and Treasa Mitchell (Alternate)
 - City of Pleasant Hill: Ross Grooters (Alternate)
 - City of Carlisle: TBD
- **Mobile Food Pantry:** In an effort to reduce barriers to accessing food pantries due to transportation availability, we are very excited to announce that DART will begin hosting the DMARC Mobile Food Pantry. The pantry will be at DART Central Station on the first and third Thursdays of the month starting March 1st from 4:00 to 6:00 pm.

FUTURE DART COMMISSION ITEMS



FUTURE AGENDA ITEMS:

March 6, 2018 – 12:00 P.M.	
Action Items	Information Items
<ul style="list-style-type: none">• FY 2019 Budget• Medium-Duty Bus Purchase• RideShare Vans• Contract for Electric Buses• Withdrawal approval for Cities	
April 3, 2018 – 12:00 P.M.	
Action Items	Information Items
<ul style="list-style-type: none">• RideShare Minivans• Financial Audit Services• Transtrack/Trapeze Contract Renewal	
May 1, 2018 – 12:00 P.M.	
Action Items	Information Items
<ul style="list-style-type: none">• Architecture and Engineering Services Contract	

Other Future Agenda Items:

- Bus Shelter Planning

ACTION ITEM

8D: December FY2018 Consolidated Financial Report

Action: Approve the December FY2018 Consolidated Financial Report

Staff Resource: Amber Dakan, Finance Manager

Year-to-Date Budget Highlights:

Revenue:

- Fixed Route Operating revenue is 2.42% under budget projections. Other Contracted Services continues to outperform budget which is offsetting Cash Fares operating under budget.
- Fixed Route Non-Operating revenue is currently 1.04% above budget. FTA lease funds are driving the performance level and offsetting State Operating Assistance under budget levels due to timing.
- Paratransit Operating revenue is 17.14% lower than budget expectations. All three categories are lower than expected. Primarily, Other Contracted Services trips makes up the largest variance.
- Paratransit Non-Operating revenue is on target.
- Rideshare revenues are 7.42% below budget. Rideshare year to date revenue has dipped below expenses slightly but is projected to be corrected prior to year end.

Operating Expense:

- Fixed Route Budget Summary – Operating expenses are 6.97% below budget projections year to date. Fuel and Lubricants, Insurance, and Salaries, Wages & Fringes are seeing the largest savings.
- Paratransit Budget Summary – Operating expenses are currently showing budget savings of 8.60%. Fuel and Lubricants, Salaries, Wages & Fringes, and Equipment Repair Parts are the categories seeing the most savings.
- Rideshare Budget Summary – Rideshare expenses are below budgetary expectations by 6.21%. Fuel & Lubricants, Salaries, Wages & Fringes, and Miscellaneous Departmental Expenses are the three categories seeing the most savings.

Recommendation:

- Approve the December FY2018 Consolidated Financial Report.

**** TOTAL Un-Audited Performance of December FY2018 Year to Date as Compared to Budget:**

Fixed Route	\$	1,014,619	Reserve for Accidents (See Balance Sheet):
Paratransit	\$	(23,376)	\$293,497.65
Rideshare	\$	<u>(4,960)</u>	
Total	\$	986,284	

FY2018 Financials: December 2017

FIXED ROUTE	December 2017				Year-To-Date-(6) Months Ending 12/31/2017		
	Actual	Budgeted	Variance		Actual	Budgeted	Variance
Operating Revenue	357,315	463,642	(106,327)		2,714,496	2,781,850	(67,354)
Non-Operating Revenue	1,600,587	1,848,126	(247,538)		11,204,243	11,088,754	115,489
Subtotal	1,957,902	2,311,767	(353,865)		13,918,739	13,870,604	48,135
Operating Expenses	2,111,649	2,311,767	200,118		12,904,120	13,870,604	966,484
Gain/(Loss)	(153,747)	-	(153,747)		1,014,619	-	1,014,619

PARATRANSIT	December 2017				Year-To-Date-(6) Months Ending 12/31/2017		
	Actual	Budgeted	Variance		Actual	Budgeted	Variance
Operating Revenue	100,186	150,983	(50,797)		750,653	905,900	(155,247)
Non-Operating Revenue	112,485	113,417	(931)		675,895	680,501	(4,605)
Subtotal	212,672	264,400	(51,728)		1,426,548	1,586,401	(159,852)
Operating Expenses	228,680	264,400	35,720		1,449,924	1,586,401	136,476
Gain/(Loss)	(16,009)	-	(16,009)		(23,376)	-	(23,376)

RIDESHARE	December 2017				Year-To-Date-(6) Months Ending 12/31/2017		
	Actual	Budgeted	Variance		Actual	Budgeted	Variance
Operating Revenue	69,058	68,792	266		382,141	412,750	(30,609)
Non-Operating Revenue	-	-	-		-	-	-
Subtotal	69,058	68,792	266		382,141	412,750	(30,609)
Operating Expenses	66,343	68,792	2,448		387,100	412,750	25,650
Gain/(Loss)	2,714	-	2,714		(4,960)	-	(4,960)

Consolidated Fixed Route Summary Income Statement
For the Six Months Ending Sunday, December 31, 2017
Fixed Route

Des Moines Area Regional Transit

	<i>December</i>	<i>December YTD</i>	<i>FY18 BUDGET</i>	<i>% of Budget</i>
	ACTUAL	ACTUAL	BUDGET	USED
Operating Revenue				
CASH FARES	\$62,354.96	\$575,298.62	\$1,424,300.00	40.39%
MONTHLY PASSES	24,096.00	179,208.00	380,000.00	47.16%
EXPRESS PLUS PASSES	5,452.00	45,762.00	110,000.00	41.60%
WEEKLY PASSES	5,664.00	42,432.00	103,000.00	41.20%
FULL FARE TOKENS	12,239.50	65,647.75	149,700.00	43.85%
MOBILE TICKETING PASSES	3,716.55	21,197.25	0.00	0.00%
ESP - MONTHLY PASSES	33,018.00	207,903.00	393,600.00	52.82%
ESP - EXPRESS PLUS PASSES	5,562.00	30,002.00	55,200.00	54.35%
ESP - WEEKLY PASSES	106.00	606.00	2,400.00	25.25%
HALF FARE TOKENS	435.00	5,482.50	10,100.00	54.28%
REDUCED MONTHLY PASSES	23,136.00	133,605.00	300,000.00	44.54%
REDUCED WEEKLY PASSES	1,596.00	11,527.00	25,200.00	45.74%
REDUCED FARE TOKENS	907.50	6,277.50	14,600.00	43.00%
OTT PASSES	5,724.00	39,042.00	85,800.00	45.50%
UNLIMITED ACCESS	45,271.57	295,594.83	600,000.00	49.27%
OTHER CONTRACTED SERVICES	34,610.10	569,863.88	891,500.00	63.92%
SCHOOL FUNDING	75,509.40	377,547.00	743,300.00	50.79%
ADVERTISING INCOME	17,916.66	107,499.99	275,000.00	39.09%
Total Operating Revenue	357,315.24	2,714,496.32	5,563,700.00	48.79%

Expenses

Salaries, Wages & Fringes

OPERATOR WAGES	441,755.83	2,853,947.49	6,633,400.00	43.02%
OPERATOR WAGES OVERTIME	33,779.02	266,064.40	249,000.00	106.85%
MGR/DIR/ADM WAGES & SALARIES	179,864.85	1,164,972.84	2,999,700.00	38.84%
SUPERVISOR SALARIES	37,364.04	249,170.83	537,300.00	46.37%
SUPERVISOR OVERTIME	0.00	32.01	0.00	0.00%
STAFF/CLERICAL SALARIES	32,536.32	294,801.76	517,500.00	56.97%
STAFF/CLERICAL OVERTIME	163.03	978.50	7,500.00	13.05%
MECHANIC WAGES	78,101.70	564,973.72	1,216,400.00	46.45%
MECHANIC OVERTIME	3,053.70	42,076.24	59,000.00	71.32%
BUILDING & GROUNDS WAGES	11,288.15	86,954.31	227,000.00	38.31%
BUILDING & GROUNDS OVERTIME	0.00	2,027.78	6,180.00	32.81%
FIXED ROUTE SERVICE WAGES	19,739.80	132,345.08	0.00	0.00%
FIXED ROUTE SERVICE OVERTIME	2,130.34	13,669.14	0.00	0.00%
VEHICLE SERVICE WAGES	21,892.01	189,111.72	456,300.00	41.44%
VEHICLE SERVICE OVERTIME	(203.81)	3,394.40	19,400.00	17.50%
STOREKEEPER WAGES	3,008.11	22,400.54	46,400.00	48.28%
STOREKEEPER OVERTIME	498.73	1,884.61	2,500.00	75.38%
INSTRUCTOR WAGES	13,031.35	111,362.88	190,000.00	58.61%
FICA	75,349.80	478,614.33	1,005,500.00	47.60%
IPERS	90,422.17	561,041.34	1,173,770.00	47.80%
HEALTH INSURANCE	116,207.70	802,316.67	1,528,900.00	52.48%
DENTAL PLANS	8,031.87	44,116.89	177,870.00	24.80%
LIFE INSURANCE	1,653.26	8,650.68	53,330.00	16.22%
DISABILITY INSURANCE	602.42	3,857.07	19,990.00	19.29%
SUTA	699.90	11,408.08	117,550.00	9.70%
WORKERS' COMPENSATION INSURANCE	40,290.41	275,688.70	528,785.00	52.14%
SICK PAY	(1,121.45)	9,411.50	0.00	0.00%
LONG TERM SICK PAY	4,622.13	17,727.23	0.00	0.00%
HOLIDAY PAY	62,670.04	85,208.72	0.00	0.00%
HOLIDAY PAY - OPERATORS	31,443.65	47,906.38	0.00	0.00%
FLOATING HOLIDAY PAY	1,738.07	9,197.17	0.00	0.00%
FLOATING HOLIDAY - OPERATORS	2,673.71	17,882.86	0.00	0.00%
VACATION PAY	41,904.73	206,098.48	0.00	0.00%
VACATION PAY - OPERATORS	11,246.59	87,729.72	0.00	0.00%

Consolidated Fixed Route Summary Income Statement
For the Six Months Ending Sunday, December 31, 2017
Fixed Route

Des Moines Area Regional Transit

	<i>December</i>	<i>December YTD</i>	<i>FY18 BUDGET</i>	<i>% of Budget</i>
	ACTUAL	ACTUAL	BUDGET	USED
Salaries, Wages & Fringes Cont.				
OTHER PAID ABSENCE	1,237.72	5,339.84	2,580.00	206.97%
UNIFORM ALLOWANCE	3,852.26	18,183.68	28,260.00	64.34%
UNIFORM ALLOWANCE - OPERATORS	4,692.72	26,208.04	53,830.00	48.69%
INCENTIVE/BONUS PAY	3,212.80	30,407.81	104,300.00	29.15%
DRIVERS' LICENSES	206.00	1,242.00	3,600.00	34.50%
DEFERRED COMP - EMPLOYER MATCH	1,289.45	11,273.99	78,600.00	14.34%
AUTOMOBILE ALLOWANCE	847.03	5,306.10	10,750.00	49.36%
MECHANICS' TOOLS	0.00	10,450.00	12,100.00	86.36%
TUITION REIMBURSEMENT	2,500.00	2,500.00	5,600.00	44.64%
Salaries, Wages & Fringes Sub Total	1,384,276.15	8,777,935.53	18,072,895.00	48.57%
Services				
MEDIA ADVERTISING	439.46	5,040.25	85,000.00	5.93%
ADVERTISING PRODUCTION	6,825.35	13,239.01	10,000.00	132.39%
AUDIT SERVICES - EXTERNAL	14,494.70	42,658.20	43,000.00	99.21%
LEGAL SERVICES	8,924.25	102,261.55	90,000.00	113.62%
COMPUTER HARDWARE/SOFTWARE MAINTENANCE	18,925.45	65,273.84	123,100.00	53.03%
IT SERVICES & CONSULTING	19,565.50	67,589.19	205,200.00	32.94%
OTHER PROFESSIONAL SERVICES	41,591.41	236,017.50	319,950.00	73.77%
TEMPORARY HELP SERVICES	17,477.00	75,838.70	105,000.00	72.23%
MAINTENANCE CONTRACTS	74,601.81	514,890.14	1,041,150.00	49.45%
OUTSIDE MAINTENANCE SERVICES	9,423.50	29,644.55	24,500.00	121.00%
GUARD SERVICE	23,633.17	74,666.81	114,800.00	65.04%
DRUG SCREENS	1,188.50	4,880.25	13,500.00	36.15%
EMPLOYEE PHYSICALS	2,430.00	10,738.00	18,850.00	56.97%
PRINTING SERVICES	2,360.23	27,601.95	40,500.00	68.15%
TRAINING SERVICE	77.00	266.00	11,600.00	2.29%
BANK SERVICE CHARGES	1,814.16	17,135.96	27,000.00	63.47%
LEWIS SYSTEM - SECURITY EXPENSE	0.00	3,487.52	12,000.00	29.06%
PROMOTIONS	7,267.79	15,649.78	30,000.00	52.17%
STATE FAIR SERVICES	0.00	26,020.73	25,000.00	104.08%
BUS STOP SIGN MAINTENANCE	1,009.09	1,505.49	17,000.00	8.86%
TOWING	1,686.25	5,305.00	20,000.00	26.53%
TRASH REMOVAL	700.98	4,456.74	13,200.00	33.76%
HAZARDOUS WASTE DISPOSAL	513.27	7,126.50	20,000.00	35.63%
CREDIT CARD PROCESSING FEES	2,264.46	9,532.67	18,000.00	52.96%
PARKING	350.00	2,810.00	5,320.00	52.82%
CONTINGENCY	0.00	0.00	100,000.00	0.00%
SPONSORSHIPS	0.00	1,435.00	8,000.00	17.94%
OTHER SERVICES	0.00	0.00	500.00	0.00%
Services Sub Total	257,563.33	1,365,071.33	2,542,170.00	53.70%
Buildings & Grounds Materials				
REPAIRS - BUILDING EQUIPMENT	2,094.25	13,955.09	38,000.00	36.72%
REPAIRS TO BUILDINGS & GROUNDS	17,224.18	74,318.23	48,000.00	154.83%
TRANSIT SHELTER REPAIRS	11,806.00	16,200.95	4,000.00	405.02%
Buildings & Grounds Materials Sub Total	31,124.43	104,474.27	90,000.00	116.08%
Office Supplies				
OFFICE SUPPLIES	4,213.90	12,795.36	29,450.00	43.45%
PRINTING SUPPLIES	0.00	0.00	500.00	0.00%
TRAINING MATERIALS & SUPPLIES	0.00	3,016.30	4,750.00	63.50%
IT SUPPLIES	0.00	592.94	3,500.00	16.94%
MISCELLANEOUS OPERATING SUPPLIES	(367.07)	8,702.89	14,000.00	62.16%
Office Supplies Sub total	3,846.83	25,107.49	52,200.00	48.10%

Consolidated Fixed Route Summary Income Statement
For the Six Months Ending Sunday, December 31, 2017
Fixed Route

Des Moines Area Regional Transit

	<i>December</i>	<i>December YTD</i>	<i>FY18 BUDGET</i>	<i>% of Budget</i>
	ACTUAL	ACTUAL	BUDGET	USED
Fuels and Lubricants				
UNLEADED GAS	3,220.67	20,611.36	155,000.00	13.30%
DIESEL - VEHICLES	107,022.52	719,672.65	2,274,613.00	31.64%
MOTOR OIL	87.64	531.15	69,800.00	0.76%
OTHER FLUIDS	18,098.81	35,559.59	64,200.00	55.39%
Fuels and Lubricants Sub Total	128,429.64	776,374.75	2,563,613.00	30.28%
Tires				
TIRES	6,254.10	30,292.58	114,000.00	26.57%
TIRES - NON REVENUE VEHICLE	0.00	346.50	0.00	0.00%
Tires Sub Total	6,254.10	30,639.08	114,000.00	26.88%
Equipment Repairs Parts				
REPAIRS - RADIO/CAMERA EQUIPMENT	0.00	4,246.26	50,000.00	8.49%
DIRECT MATERIAL CHARGES & OUTSIDE REPAIR	30,044.10	189,243.11	450,000.00	42.05%
PARATRANSIT - DIRECT MATERIAL CHARGES	0.00	570.00	0.00	0.00%
REVENUE VEHICLE - REPAIR PARTS	37,569.52	333,620.93	770,000.00	43.33%
NON REVENUE VEHICLE - REPAIR PARTS	110.41	1,797.94	9,000.00	19.98%
REPAIRS - SHOP EQUIPMENT & TOOLS	0.00	5,397.94	18,000.00	29.99%
REPAIRS - NON REVENUE EQUIPMENT	79.95	82.95	3,500.00	2.37%
ACCIDENT REPAIR - REVENUE EQUIPMENT	0.00	777.60	35,000.00	2.22%
Equipment Repairs Parts Sub Total	67,803.98	535,736.73	1,335,500.00	40.12%
Supplies and Materials				
BUILDING CLEANING SUPPLIES	3,092.37	24,504.62	43,000.00	56.99%
INTERIOR CLEANING SUPPLIES	0.00	36.02	12,880.00	0.28%
CLEANING SUPPLIES - REVENUE EQUIPMENT	335.97	439.99	14,200.00	3.10%
POSTAGE	181.30	9,560.19	16,000.00	59.75%
SERVICE SUPPLIES - REVENUE EQUIP	4,109.58	34,430.19	66,000.00	52.17%
SMALL TOOLS	522.90	14,055.11	23,200.00	60.58%
TICKET & SCHEDULE EXPENSE	9,975.03	26,948.61	70,000.00	38.50%
FREIGHT	242.22	1,625.04	8,000.00	20.31%
Supplies and Materials Sub Total	18,459.37	111,599.77	253,280.00	44.06%
Utilities				
WATER & SEWER	3,723.88	25,102.39	47,480.00	52.87%
GAS & ELECTRICITY	13,248.64	73,957.15	147,100.00	50.28%
TELEPHONE	9,470.61	50,572.46	122,080.00	41.43%
CELLPHONE	5,056.11	23,237.21	38,850.00	59.81%
BUS CELLULAR	957.60	13,187.38	11,500.00	114.67%
TELEVISION & INTERNET	104.24	11,439.73	0.00	0.00%
Utilities Sub Total	32,561.08	197,496.32	367,010.00	53.81%
Insurance-Vehicle & Other				
AUTO/GENERAL LIABILITY	49,211.53	294,523.08	606,000.00	48.60%
RECOVERIES FROM ACCIDENTS	0.00	(18,532.69)	0.00	0.00%
PROPERTY INSURANCE	7,226.46	43,344.98	172,431.00	25.14%
INSURANCE ADJUSTMENT FEES	822.00	12,170.60	87,500.00	13.91%
INJURIES & DAMAGES PAID OUT	2,788.08	85,552.35	200,000.00	42.78%
CLAIMS EXPENSE TRANSFER TO INSURANCE RESERVE	(2,788.08)	(85,552.35)	0.00	0.00%
OTHER INSURANCE FEES	880.88	5,284.51	75,000.00	7.05%
Insurance-Vehicle & Other Sub Total	58,140.87	336,790.48	1,140,931.00	29.52%

Consolidated Fixed Route Summary Income Statement
For the Six Months Ending Sunday, December 31, 2017
Fixed Route

Des Moines Area Regional Transit

	<i>December</i>	<i>December YTD</i>	<i>FY18 BUDGET</i>	<i>% of Budget</i>
	ACTUAL	ACTUAL	BUDGET	USED
Purchased Transportation Services				
PURCHASED TRANSPORTATION	256.60	939.60	2,000.00	46.98%
Purchased Transportation Services Sub Total	256.60	939.60	2,000.00	46.98%
Misc. Departmental Expenses				
EMPLOYEE SERVICE AWARDS	6,305.95	19,670.48	20,000.00	98.35%
DUES, MEMBERSHIPS, & SUBSCRIPTIONS	8,103.91	54,039.47	76,400.00	70.73%
TRAVEL AND MEETINGS	2,631.54	40,454.91	64,200.00	63.01%
RECRUITMENT EXPENSES	1,080.00	26,188.19	7,500.00	349.18%
DART COMMISSION TRAVEL EXPENSE	0.00	0.00	8,000.00	0.00%
BAD DEBT EXPENSE	0.00	0.00	10,000.00	0.00%
COMPANY EVENTS	68.55	22,264.46	48,500.00	45.91%
EMPLOYEE ADVERTISING	0.00	1,892.00	10,000.00	18.92%
DART COMMISSION EXPENSE	391.76	6,457.24	4,500.00	143.49%
GENERAL EMPLOYEE EXPENSE	4,774.16	8,969.02	11,000.00	81.54%
STAFF TRAINING	12,799.37	20,451.73	42,100.00	48.58%
PUBLIC MEETINGS	0.00	714.77	1,500.00	47.65%
MISCELLANEOUS	643.10	11,078.71	35,400.00	31.30%
OVERHEAD ALLOCATION	(32,014.00)	(192,084.00)	(384,168.00)	50.00%
INTEREST EXPENSE- GO BONDS SERIES 2010	17,797.50	17,797.50	35,200.00	50.56%
LEASES/RENTALS - PARK & RIDE	5,150.00	20,000.00	36,000.00	55.56%
LEASES/RENTALS	36.42	12,461.29	31,000.00	40.20%
LEASES/RENTALS - EQUIPMENT	0.00	609.97	8,500.00	7.18%
LOSS ON DISPOSITION FIXED ASSET	0.00	(0.01)	0.00	0.00%
Misc. Departmental Expenses Sub Total	27,768.26	70,965.73	65,632.00	108.13%
Local Match				
LOCAL MATCH	95,164.75	570,988.50	1,141,977.00	50.00%
Local Match Expense Sub Total	95,164.75	570,988.50	1,141,977.00	50.00%
Total Operating Expenses	2,111,649.39	12,904,119.58	27,741,208.00	46.52%
Non-Operating Revenue				
INTEREST INCOME	6,423.93	26,891.98	15,000.00	179.28%
DCS RENTAL INCOME	2,147.69	13,617.64	26,000.00	52.38%
SALE OF SCRAP	0.00	4,145.29	7,500.00	55.27%
DCS BIKE STORAGE RENTAL	0.00	250.00	1,000.00	25.00%
MISCELLANEOUS INCOME	38,962.78	49,649.04	40,000.00	124.12%
COUNTY TAX REVENUES	1,373,908.17	8,243,449.02	16,486,898.00	50.00%
MUNICIPAL OPERATING ASSISTANCE	0.00	340,000.00	680,000.00	50.00%
STATE OPERATING ASSISTANCE	0.00	713,719.49	1,640,770.00	43.50%
STATE CONTRACTS	0.00	295,190.22	610,000.00	48.39%
STATE GRANT FUNDS	0.00	10,200.00	0.00	0.00%
CMAQ FUNDS	0.00	45,718.00	85,000.00	53.79%
FTA LEASE FUNDS	0.00	296,020.00	0.00	0.00%
FTA OPERATING INCOME	216,250.00	1,297,500.00	2,595,000.00	50.00%
INTEREST EXPENSE	(37,105.31)	(132,107.77)	(9,660.00)	1367.58%
Non-Operating Revenue Sub Total	1,600,587.26	11,204,242.91	22,177,508.00	50.52%
Excess / (Deficiency)	(153,746.89)	1,014,619.65	0.00	0.00%

	<i>December</i>	<i>December YTD</i>	<i>FY18 BUDGET</i>	<i>% of Budget</i>
	ACTUAL	ACTUAL	BUDGET	USED
Operating Revenue				
CASH FARES	\$10,951.41	\$54,694.63	\$120,000.00	45.58%
MOBILE TICKETING PASSES	0.00	17.50	0.00	0.00%
OTHER CONTRACTED SERVICES	47,465.40	407,998.91	1,050,000.00	38.86%
POLK COUNTY FUNDING	41,769.39	287,941.52	641,800.00	44.86%
Total Operating Revenue	100,186.20	750,652.56	1,811,800.00	41.43%

Expenses

Salaries, Wages & Fringes

OPERATOR WAGES	60,609.31	423,991.52	914,500.00	46.36%
OPERATOR WAGES OVERTIME	3,638.89	18,635.44	19,000.00	98.08%
MGR/DIR/ADM WAGES & SALARIES	5,230.76	32,056.88	90,400.00	35.46%
STAFF/CLERICAL SALARIES	11,432.94	76,586.09	80,900.00	94.67%
STAFF/CLERICAL OVERTIME	28.36	238.93	1,500.00	15.93%
MECHANIC WAGES	9,889.03	61,098.60	150,000.00	40.73%
FICA	8,316.55	53,430.09	102,470.00	52.14%
IPERS	10,348.34	57,187.38	119,570.00	47.83%
HEALTH INSURANCE	6,497.88	42,935.32	188,560.00	22.77%
DENTAL PLANS	627.57	3,858.06	9,670.00	39.90%
LIFE INSURANCE	92.65	676.14	7,010.00	9.65%
DISABILITY INSURANCE	24.09	143.02	1,050.00	13.62%
SUTA	239.39	2,627.52	27,590.00	9.52%
WORKERS' COMPENSATION INSURANCE	5,278.93	35,002.56	94,760.00	36.94%
LONG TERM SICK PAY	(126.73)	2,053.25	0.00	0.00%
HOLIDAY PAY - OPERATORS	6,479.73	11,646.10	0.00	0.00%
FLOATING HOLIDAY - OPERATORS	4,733.57	8,487.82	0.00	0.00%
VACATION PAY - OPERATORS	7,716.31	17,433.31	0.00	0.00%
OTHER PAID ABSENCE	18.17	223.05	1,500.00	14.87%
UNIFORM ALLOWANCE - OPERATORS	1,397.37	6,881.08	15,600.00	44.11%
INCENTIVE/BONUS PAY	0.00	11,350.00	12,850.00	88.33%
DRIVERS' LICENSES	40.00	402.00	1,700.00	23.65%
DEFERRED COMP - EMPLOYER MATCH	0.00	168.37	5,000.00	3.37%
Salaries, Wages & Fringes Sub Total	142,513.11	867,112.53	1,843,630.00	47.03%

Services

OTHER PROFESSIONAL SERVICES	708.00	1,416.00	0.00	0.00%
TEMPORARY HELP SERVICES	4,156.88	17,833.17	2,500.00	713.33%
DRUG SCREENS	451.00	1,113.25	4,000.00	27.83%
EMPLOYEE PHYSICALS	810.00	3,420.00	5,000.00	68.40%
TOWING	600.00	3,056.25	0.00	0.00%
Services Sub Total	6,725.88	26,838.67	11,500.00	233.38%

Office Supplies

OFFICE SUPPLIES	0.00	25.54	1,000.00	2.55%
PRINTING SUPPLIES	0.00	0.00	1,000.00	0.00%
Office Supplies Sub total	0.00	25.54	2,000.00	1.28%

Fuels and Lubricants

UNLEADED GAS	7,007.93	47,150.40	70,700.00	66.69%
DIESEL - VEHICLES	5,652.57	38,525.00	225,000.00	17.12%
MOTOR OIL	662.42	996.92	7,500.00	13.29%
OTHER FLUIDS	4,381.39	7,881.03	11,000.00	71.65%
Fuels and Lubricants Sub Total	17,704.31	94,553.35	314,200.00	30.09%

	December ACTUAL	December YTD ACTUAL	FY18 BUDGET BUDGET	% of Budget USED
Tires				
TIRES	276.00	11,017.37	35,000.00	31.48%
Tires Sub Total	276.00	11,017.37	35,000.00	31.48%
Equipment Repairs Parts				
PARATRANSIT - DIRECT MATERIAL CHARGES	2,098.96	27,958.20	80,000.00	34.95%
REVENUE VEHICLE - REPAIR PARTS	3,069.86	27,601.64	80,000.00	34.50%
ACCIDENT REPAIRS NON REVENUE VEHICLES	0.00	0.00	3,750.00	0.00%
Equipment Repairs Parts Sub Total	5,168.82	55,559.84	163,750.00	33.93%
Supplies and Materials				
CLEANING SUPPLIES - REVENUE EQUIPMENT	0.00	0.00	1,500.00	0.00%
SERVICE SUPPLIES - REVENUE EQUIP	925.55	7,600.76	9,700.00	78.36%
Supplies and Materials Sub Total	925.55	7,600.76	11,200.00	67.86%
Utilities				
CELLPHONE	52.19	625.28	800.00	78.16%
Utilities Sub Total	52.19	625.28	800.00	78.16%
Insurance-Vehicle & Other				
AUTO/GENERAL LIABILITY	5,186.24	31,477.95	65,000.00	48.43%
INJURIES & DAMAGES PAID OUT	0.00	0.00	40,000.00	0.00%
Insurance-Vehicle & Other Sub Total	5,186.24	31,477.95	105,000.00	29.98%
Purchased Transportation Services				
CAB CONTRACT SERVICE	8,002.42	101,858.95	175,000.00	58.21%
Purchased Transportation Services Sub Total	8,002.42	101,858.95	175,000.00	58.21%
Misc. Departmental Expenses				
TRAVEL AND MEETINGS	0.00	200.00	3,500.00	5.71%
MISCELLANEOUS	24.17	443.59	2,000.00	22.18%
OVERHEAD ALLOCATION	25,259.83	151,558.98	303,118.00	50.00%
Misc. Departmental Expenses Sub Total	25,284.00	152,202.57	308,618.00	49.32%
Local Match				
LOCAL MATCH	16,841.92	101,051.52	202,103.00	50.00%
Local Match Expense Sub Total	16,841.92	101,051.52	202,103.00	50.00%
Total Operating Expenses	228,680.44	1,449,924.33	3,172,801.00	45.70%
Non-Operating Revenue				
COUNTY TAX REVENUES	66,652.08	399,912.48	799,825.00	50.00%
5310 ELDERLY/DISABLED FUNDS	14,583.33	88,482.99	175,000.00	50.56%
FTA ADA - 5307	31,250.00	187,500.00	375,000.00	50.00%
FTA SECTION 18	0.00	0.00	11,176.00	0.00%
Non-Operating Revenue Sub Total	112,485.41	675,895.47	1,361,001.00	49.66%
Excess / (Deficiency)	(16,008.83)	(23,376.30)	0.00	0.00%

	<i>December</i>	<i>December YTD</i>	<i>FY18 BUDGET</i>	<i>% of Budget</i>
	ACTUAL	ACTUAL	BUDGET	USED
Operating Revenue				
PASSENGER FARES	\$69,057.94	\$382,140.63	\$825,500.00	46.29%
Total Operating Revenue	69,057.94	382,140.63	825,500.00	46.29%
Expenses				
Salaries, Wages & Fringes				
MGR/DIR/ADM WAGES & SALARIES	0.00	11,186.54	19,000.00	58.88%
STAFF/CLERICAL SALARIES	5,590.90	32,895.46	73,700.00	44.63%
STAFF/CLERICAL OVERTIME	(24.24)	494.39	1,000.00	49.44%
FICA	525.54	3,485.72	7,170.00	48.62%
IPERS	642.85	4,143.44	8,370.00	49.50%
HEALTH INSURANCE	1,569.22	11,092.83	35,640.00	31.12%
DENTAL PLANS	110.87	602.60	1,410.00	42.74%
LIFE INSURANCE	19.99	114.29	210.00	54.42%
DISABILITY INSURANCE	17.25	98.55	240.00	41.06%
SUTA	0.00	119.27	850.00	14.03%
WORKERS' COMPENSATION INSURANCE	20.21	145.37	320.00	45.43%
HOLIDAY PAY	1,345.91	1,727.18	0.00	0.00%
VACATION PAY	197.60	793.41	0.00	0.00%
UNIFORM ALLOWANCE	0.00	0.00	250.00	0.00%
INCENTIVE/BONUS PAY	0.00	750.00	500.00	150.00%
DEFERRED COMP - EMPLOYER MATCH	0.00	0.00	3,000.00	0.00%
Salaries, Wages & Fringes Sub Total	10,016.10	67,649.05	151,660.00	44.61%
Services				
TEMPORARY HELP SERVICES	0.00	0.00	2,500.00	0.00%
DRUG SCREENS	0.00	2,280.50	5,500.00	41.46%
EMPLOYEE PHYSICALS	0.00	30.00	1,200.00	2.50%
TOWING	0.00	0.00	750.00	0.00%
PARKING	70.00	480.00	660.00	72.73%
Services Sub Total	70.00	2,790.50	10,610.00	26.30%
Office Supplies				
OFFICE SUPPLIES	6.59	63.24	500.00	12.65%
TRAINING MATERIALS & SUPPLIES	11.65	31.47	1,000.00	3.15%
Office Supplies Sub total	18.24	94.71	1,500.00	6.31%
Fuels and Lubricants				
UNLEADED GAS	23,018.64	125,924.16	277,620.00	45.36%
Fuels and Lubricants Sub Total	23,018.64	125,924.16	277,620.00	45.36%
Tires				
TIRES	0.00	4,710.47	15,000.00	31.40%
Tires Sub Total	0.00	4,710.47	15,000.00	31.40%

Rideshare Income Statement
For the Six Months Ending Sunday, December 31, 2017
Rideshare 145

Des Moines Area Regional Transit

	<i>December</i>	<i>December YTD</i>	<i>FY18 BUDGET</i>	<i>% of Budget</i>
	ACTUAL	ACTUAL	BUDGET	USED
Equipment Repairs Parts				
VEHICLE SUPPLIES	43.79	447.40	1,500.00	29.83%
REVENUE VEHICLE - REPAIR PARTS	3,128.13	20,154.37	52,916.00	38.09%
ACCIDENT REPAIR - REVENUE EQUIPMENT	4,926.31	17,571.85	10,000.00	175.72%
Equipment Repairs Parts Sub Total	8,098.23	38,173.62	64,416.00	59.26%
Utilities				
CELLPHONE	92.20	709.22	1,200.00	59.10%
Utilities Sub Total	92.20	709.22	1,200.00	59.10%
Insurance-Vehicle & Other				
AUTO/GENERAL LIABILITY	5,513.23	33,479.52	66,200.00	50.57%
Insurance-Vehicle & Other Sub Total	5,513.23	33,479.52	66,200.00	50.57%
Purchased Transportation Services				
CAB SERVICE	1,131.50	2,718.50	6,500.00	41.82%
Purchased Transportation Services Sub Total	1,131.50	2,718.50	6,500.00	41.82%
Misc. Departmental Expenses				
DUES, MEMBERSHIPS, & SUBSCRIPTIONS	0.00	0.00	1,000.00	0.00%
TRAVEL AND MEETINGS	0.00	75.86	2,000.00	3.79%
BAD DEBT EXPENSE	0.00	0.00	750.00	0.00%
PROMOTIONAL EVENTS	150.00	250.00	7,500.00	3.33%
STAFF TRAINING	0.00	1,112.50	500.00	222.50%
CARPOOL REIMBURSEMENT	15.00	60.00	400.00	15.00%
MISCELLANEOUS	0.00	30.00	0.00	0.00%
OVERHEAD ALLOCATION	6,754.17	40,525.02	81,050.00	50.00%
Misc. Departmental Expenses Sub Total	6,919.17	42,053.38	93,200.00	45.12%
Local Match				
LOCAL MATCH	11,466.17	68,797.02	137,594.00	50.00%
Local Match Expense Sub Total	11,466.17	68,797.02	137,594.00	50.00%
Total Operating Expenses	66,343.48	387,100.15	825,500.00	46.89%
Excess / (Deficiency)	2,714.46	(4,959.52)	0.00	0.00%

Balance Sheet*Month ending Sunday, December 31, 2017*

Des Moines Area Regional Transit

ASSETS**CASH AND CASH ITEMS**

BANKERS TRUST GENERAL ACCOUNT	\$8,829,967.79
BANKERS TRUST PAYROLL ACCOUNT	4,042.36
PETTY CASH	1,764.98
DEPOSITS TO BE REFUNDED TO DART	21,951.94
TOTAL CASH AND CASH ITEMS	8,857,727.07

RECEIVABLES

ACCOUNTS RECEIVABLE	654,117.63
ALLOWANCE FOR BAD DEBTS	(30,600.05)
A/R - FTA CAPITAL GRANTS	1.20
A/R - FTA OPERATING ASSISTANCE	1,485,000.00
A/R - EMPLOYEES	725.37
A/R - WARRANTY CLAIMS	(12,631.38)
PROPERTY TAX RECEIVABLE - CURRENT	17,286,723.00
A/R - CREDIT CARD RECEIVABLE - RIDESHARE	8,683.00
A/R - POINT OF SALE CREDIT CARD RECEIVABLE	2,385.95
A/R - MOBILE TICKETING	(99.77)
TOTAL RECEIVABLES	19,394,304.95

MATERIALS AND SUPPLIES INVENTORY

INVENTORY - DIESEL FUEL	46,611.42
INVENTORY - GASOLINE	740.06
INVENTORY - PARTS & EQUIPMENT	867,887.70
RESERVE FOR OBSOLETE INVENTORY	(115,229.61)
TOTAL MAT AND SUP INVENTORY	800,009.57

WORK IN PROGRESS

WORK IN PROGRESS	2,342,356.38
TOTAL WORK IN PROGRESS	2,342,356.38

TANGIBLE ASSETS

LAND	1,430,822.83
BUILDINGS	37,237,607.82
REVENUE EQUIPMENT - FIXED ROUTE BUSES	41,135,927.20
REVENUE EQUIPMENT - ON CALL BUSES	1,552,079.82
REVENUE EQUIPMENT - PARATRANSIT BUSES	2,861,692.60
REVENUE EQUIPMENT - FARE COLLECTION	1,214,757.28
COMMUNICATIONS EQUIPMENT	4,763,585.23
SERVICE CARS & EQUIPMENT	646,203.89
RIDESHARE EQUIPMENT	3,529,470.34
SHOP & GARAGE EQUIPMENT	723,316.18
FURNITURE & OFFICE EQUIPMENT	1,115,292.80
COMPUTER EQUIPMENT	4,354,833.14
MISCELLANEOUS EQUIPMENT	1,078,463.68
ACCUMULATED DEPRECIATION - BUILDINGS	(11,937,873.91)
ACCUMULATED DEPRECIATION - FIXED ROUTE BUSES	(19,528,083.11)
ACCUMULATED DEPRECIATION-ON CALL BUSES	(566,290.12)
ACCUMULATED DEPRECIATION - PARATRANSIT BUSES	(1,436,917.92)

Balance Sheet*Month ending Sunday, December 31, 2017*

Des Moines Area Regional Transit

TANGIBLE ASSETS, CONTINUED

ACCUMULATED DEPRECIATION - FARE COLLECTION EQUIPMENT	(1,166,114.18)
ACCUMULATED DEPRECIATION - COMMUNICATION EQUIPMENT	(4,127,167.90)
ACCUMULATED DEPRECIATION - SERVICE CARS/EQUIPMENT	(359,416.22)
ACCUMULATED DEPRECIATION - RIDESHARE VANS	(2,130,005.40)
ACCUMULATED DEPRECIATION - SHOP & GARAGE EQUIPMENT	(637,638.14)
ACCUMULATED DEPRECIATION - FURNITURE & OFFICE EQUIPMENT	(711,794.17)
ACCUMULATED DEPRECIATION - COMPUTER EQUIPMENT	(3,753,469.08)
ACCUMULATED DEPRECIATION - MISCELLANEOUS EQUIPMENT	(669,512.65)
TOTAL LAND, BLDGS, AND EQUIP	54,619,770.01

PREPAIDS

PREPAID EXPENSES	343,839.19
PREPAID INSURANCE	408,109.91
TOTAL PREPAIDS	751,949.10

DEFERRED OUTFLOWS OF RESOURCES

PENSION DEFERRED OUTFLOWS OF RESOURCES	5,067,880.00
TOTAL DEFERRED OUTFLOWS	5,067,880.00

TOTAL ASSETS**\$91,833,997.08****LIABILITIES****TRADE PAYABLES**

ACCOUNTS PAYABLE	\$658,548.65
ACCRUED PURCHASES	18,316.20
FUEL TAX RECEIVABLE	(5,650.36)
TOTAL TRADE PAYABLES	671,214.49

ACCRUED PAYROLL LIABILITIES

DUE TO EMPLOYEES	5,712.78
ACCRUED PAYROLL LIABILITIES	328,753.30
ACCRUED PAYROLL PAYABLE	905.16
ACCRUED VACATION - NEXT YEAR	394,961.60
ACCRUED LTD PAYABLE	(8.71)
ACCRUED DEFERRED COMPENSATION	7,397.03
ACCRUED WORKERS' COMPENSATION	(76,212.07)
PAYROLL DEDUCTIONS	396,135.31
ACCRUED FICA TAXES PAYABLE	82,185.83
ACCRUED SUTA TAXES PAYABLE	(1,658.97)
TOTAL PAYROLL LIABILITIES	1,138,171.26

Balance Sheet*Month ending Sunday, December 31, 2017*

Des Moines Area Regional Transit

OTHER CURRENT LIABILITIES

RESERVES	(12,302.99)
OTHER PAYABLES	165,843.88
DEFERRED REVENUE - FIXED ROUTE	2,555.00
DEFERRED REVENUE - RIDESHARE	67,160.38
DEFERRED REVENUE - PARATRANSIT	212,500.05
DEFERRED PROPERTY TAX REVENUES	17,286,723.00
DEFERRED CAPITAL REVENUE	243,119.94
TOTAL OTHER CURRENT LIABILITIES	17,965,599.26

LEASE PAYABLE-FIXED ROUTE BUS	7,910,752.39
GO BONDS PAYABLE- SERIES 2010	1,155,000.00
POST-RETIREMENT OBLIGATIONS	174,978.00
PENSION LIABILITY	11,306,043.00
RESERVE FOR ACCIDENT LOSSES	293,497.65
RIDESHARE DEPOSITS HELD	76,502.52
DCS BIKE RENTAL DEPOSITS HELD	150.00
VENDOR SPACE DEPOSITS HELD	3,201.34
TOTAL LIABILITIES	40,695,109.91

FUND BALANCE

INVESTED IN CAPITAL ASSETS	60,403,078.42
CONTRIBUTED CAPITAL	490,619.00
FR CONTRIBUTION TO FIXED ASSETS	16,121,952.31
PT CONTRIBUTION TO FIXED ASSETS	1,164,101.64
RS CONTRIBUTION TO FIXED ASSETS	1,267,282.64
TOTAL COMMISSION DESIGNATED	79,447,034.01

RETAINED EARNINGS-FIXED ROUTE	4,547,057.98
RETAINED EARNINGS - PARATRANSIT	(2,618,531.00)
RETAINED EARNINGS - RIDESHARE	(840,169.00)
CURRENT SURPLUS	(30,930,532.82)

DEFERRED INFLOWS OF RESOURCES

PENSION DEFERRED INFLOWS OF RESOURCES	1,534,028.00
TOTAL DEFERRED INFLOWS	1,534,028.00

TOTAL LIABILITIES AND NET ASSETS	<u><u>\$91,833,997.08</u></u>
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ACCOUNTS PAYABLES CHECKS**DART 12-2017**

Document Date	Vendor Name	Document Amount
12/8/2017	THE BUS COALITION, INC.	\$3,000.00
12/8/2017	CARPENTER UNIFORM	\$320.40
12/8/2017	CONTROLLED ACCESS OF THE MIDWEST, LLC	\$6,150.00
12/8/2017	COOPER, EMMANUEL	\$20.00
12/8/2017	COSTTREE, LLC	\$4,000.00
12/8/2017	CRESCENT ELECTRIC SUPPLY	\$32.16
12/8/2017	A & B CONTRACTING LLC	\$3,000.00
12/8/2017	ACME TOOLS	\$348.38
12/8/2017	ADECCO EMPLOYMENT SERVICE	\$3,731.30
12/8/2017	AHMED, FAISAL	\$20.00
12/8/2017	AIR FILTER SALES & SERVICE	\$163.20
12/8/2017	AMERICAN AWARDS, INC.	\$12.94
12/8/2017	AMERICAN RADIATOR	\$7,492.88
12/8/2017	AUTO-JET MUFFLER	\$255.00
12/8/2017	BAKER GROUP	\$123.00
12/8/2017	BANICKY, RANEA	\$62.00
12/8/2017	BARNHILL, NICO	\$64.00
12/8/2017	B-CYCLE	\$4,500.00
12/8/2017	BLUE CROSS-BLUE SHIELD	\$127,422.82
12/8/2017	BOESEN THE FLORIST	\$275.60
12/8/2017	BRIXMOR OPERATING PARTNERSHIP LP	\$1,600.00
12/8/2017	BRONSON, MARLA	\$150.71
12/8/2017	CUMMINS CENTRAL POWER LLC	\$2,490.29
12/8/2017	DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.	\$1,529.00
12/8/2017	DIANA J. DEIBLER	\$4,500.00
12/8/2017	DES MOINES HEATING & COOLING, LLC	\$544.00
12/8/2017	DEWEY FORD, INC.	\$452.42
12/8/2017	DGS-ACQUISITIONS, L.L.C.	\$500.00
12/8/2017	DES MOINES WATER WORKS	\$3,422.00
12/8/2017	EASTERN IOWA TIRE	\$2,704.95
12/8/2017	FACTORY MOTOR PARTS	\$1,000.62
12/8/2017	FAMILY SUPPORT REGISTRY	\$441.04
12/8/2017	FAMILY SUPPORT PAYMNT CTR	\$187.85
12/8/2017	FASTENAL COMPANY	\$913.55

ACCOUNTS PAYABLES CHECKS**DART 12-2017**

Document Date	Vendor Name	Document Amount
12/8/2017	FBG SERVICE CORPORATION	\$551.14
12/8/2017	FIDELITY SECURITY LIFE	\$523.29
12/8/2017	FIRSTSOURCE SOLUTIONS	\$1,185.25
12/8/2017	FROHLING, SHAWNA	\$75.00
12/8/2017	GARAT, MOHAMUD	\$72.08
12/8/2017	GATR TRUCK CENTER	\$431.19
12/8/2017	GFI GENFARE	\$280.54
12/8/2017	GILLIG LLC	\$1,696.95
12/8/2017	G & K SERVICES	\$96.32
12/8/2017	G & L CLOTHING	\$831.36
12/8/2017	GREATER DSM COMMITTEE	\$250.00
12/8/2017	HANIFEN CO. INC.	\$743.75
12/8/2017	HARRISON TRUCK CENTER	\$3,998.50
12/8/2017	HAWKINS, DENNIS	\$53.47
12/8/2017	HOTSY EQUIPMENT COMPANY	\$268.00
12/8/2017	IOWA COMMUNITIES ASSURANCE POOL	\$1,255.99
12/8/2017	INTERSTATE PWR SYS	\$3,305.63
12/8/2017	IZAAK WALTON LEAGUE OF AMERICA	\$6,915.00
12/8/2017	JENSEN, GARY	\$75.00
12/8/2017	JOHNSON, LEANNE	\$32.00
12/8/2017	JOHNSTON CHAMBER OF COMMERCE	\$1,345.00
12/8/2017	KARL CHEVROLET	\$3,270.75
12/8/2017	KECK, INC.	\$27,270.32
12/8/2017	KING DELIVERY SERVICE	\$292.87
12/8/2017	KMET CONSULTING	\$1,000.00
12/8/2017	KOECH, MESHACK	\$1,532.09
12/8/2017	THE LINCOLN NATIONAL LIFE INSURANCE CO.	\$5,489.52
12/8/2017	LOCAL YOCALS	\$398.15
12/8/2017	LUBE-TEC	\$1,736.35
12/8/2017	MACKEL-WIEDERANDERS, KURT	\$40.00
12/8/2017	MCCALL LIZBETH	\$154.24
12/8/2017	MC MASTER-CARR SUPPLY CO.	\$14.03
12/8/2017	MEDIACOM	\$2,075.00
12/8/2017	MENARDS INC	\$189.95

ACCOUNTS PAYABLES CHECKS**DART 12-2017**

Document Date	Vendor Name	Document Amount
12/8/2017	METHODIST OPPUCATIONAL HEALTH & WELLNESS	\$115.00
12/8/2017	MIDWEST TRANSIT EQUIPMENT	\$310.72
12/8/2017	MIDWEST WHEEL COMPANIES	\$2,304.58
12/8/2017	MILAM, JANESE	\$75.00
12/8/2017	MISDU	\$304.71
12/8/2017	MITTERA GROUP	\$4,042.00
12/8/2017	MMIT BUSINESS SOLUTIONS GROUP	\$36.42
12/8/2017	MOHAWK MFG & SUPPLY CO	\$378.48
12/8/2017	MORRIS, MARK	\$550.00
12/8/2017	NAPA AUTO PARTS	\$1,675.42
12/8/2017	NEW FLYER PARTS	\$2,559.52
12/8/2017	NORSOLV SYSTEMS ENVIRONMENTAL SERVICES	\$150.90
12/8/2017	NYS CHILD SUPPORT PROCESSING CENTER	\$177.00
12/8/2017	OCCUPATIONAL HEALTH CENTERS OF THE SOUTHWEST, P.A.	\$173.00
12/8/2017	PALMER GROUP	\$1,800.00
12/8/2017	PEPSI COLA	\$55.22
12/8/2017	POLK COUNTY SHERIFF	\$243.09
12/8/2017	CENTURYLINK	\$201.40
12/8/2017	RACOM CORP	\$600.00
12/8/2017	ROBERT HALF INTERNATIONAL	\$2,304.00
12/8/2017	ROSENDAHL, MATTHEW	\$58.30
12/8/2017	RSM US LLP	\$4,750.00
12/8/2017	SAFELITE FULFILLMENT, INC.	\$49.95
12/8/2017	SCHNEIDER GRAPHICS, INC.	\$218.34
12/8/2017	SHOES FOR CREWS	\$77.96
12/8/2017	SOWDER, WILLIAM	\$20.00
12/8/2017	DES MOINES RADIO GROUP	\$2,683.00
12/8/2017	STATE DISBURSEMENT UNIT	\$11.08
12/8/2017	STROH CORPORATION	\$6,586.26
12/8/2017	SUBSTANCE	\$14,250.00
12/8/2017	TEAMSTERS LOCAL 238	\$124.50
12/8/2017	THOMAS BUS SALES OF IOWA	\$91.72
12/8/2017	THOMPSON, BECKY	\$75.00
12/8/2017	TMD, INC.	\$26,534.10

ACCOUNTS PAYABLES CHECKS**DART 12-2017**

Document Date	Vendor Name	Document Amount
12/8/2017	TOYOTA OF DES MOINES	\$26.45
12/8/2017	TRANS IOWA, L.C.	\$10,966.95
12/8/2017	TRAPEZE GROUP INC.	\$15,618.08
12/8/2017	TRIPLETT COMPANIES	\$655.68
12/8/2017	ULINE	\$819.41
12/8/2017	ULRICH MOTOR CO.	\$53.40
12/8/2017	UNITED PARCEL SERVICE	\$150.79
12/8/2017	UNITED WAY	\$868.47
12/8/2017	U.S. DEPARTMENT OF EDUCATION	\$424.24
12/8/2017	VICKROY, MARK	\$75.00
12/8/2017	WEST DES MOINES EMS	\$680.00
12/8/2017	WEBSPEC DESIGN	\$105.00
12/8/2017	WELLMARK BLUE CROSS	\$42.14
12/8/2017	WELLS FARGO FINANCIAL LEASING, INC.	\$2,393.32
12/8/2017	WESCO DISTRIBUTION, INC.	\$56.71
12/8/2017	WRIGHT EXPRESS FLEET SERVICES	\$25,535.86
12/8/2017	WOODMAN CONTROLS COMPANY	\$1,300.00
12/8/2017	W W GRAINGER, INC.	\$236.00
12/8/2017	GLORIA DEI LUTHERAN CHURCH	\$700.00
12/8/2017	WRIGHT LOOKINGBILL, LLC	\$3,650.00
12/8/2017	CARSON, MARK	\$75.00
12/8/2017	CARTER PRINTING CO., INC.	\$278.35
12/8/2017	CLYBERG, AARON	\$154.24
12/8/2017	COMMONWEALTH ELECTRIC CO. OF THE MIDWEST	\$411.04
12/15/2017	CUMMINS CENTRAL POWER LLC	\$5,213.60
12/15/2017	EASTERN IOWA TIRE	\$3,606.40
12/15/2017	FACTORY MOTOR PARTS	\$109.90
12/15/2017	FASTENAL COMPANY	\$1,155.49
12/15/2017	FBG SERVICE CORPORATION	\$5,949.00
12/15/2017	FERRELLGAS,INC	\$243.13
12/15/2017	ACK ENTERPRISES	\$1,278.00
12/15/2017	ACME TOOLS	\$295.46
12/15/2017	ADECCO EMPLOYMENT SERVICE	\$3,940.15
12/15/2017	AIR FILTER SALES & SERVICE	\$42.90

ACCOUNTS PAYABLES CHECKS**DART 12-2017**

Document Date	Vendor Name	Document Amount
12/15/2017	A.J. ALLEN MECHANICAL CONTRACTORS, INC.	\$312.00
12/15/2017	AMERICAN RADIATOR	\$600.00
12/15/2017	ARADIUS GROUP	\$1,682.00
12/15/2017	ARNOLD MOTOR SUPPLY	\$368.00
12/15/2017	ATW TRAINING SOLUTIONS	\$1,180.00
12/15/2017	CAPITAL LANDSCAPING	\$1,246.00
12/15/2017	CARTER PRINTING CO., INC.	\$120.00
12/15/2017	CDW GOVERNMENT, INC.	\$8,867.80
12/15/2017	CENTURYLINK	\$2,525.51
12/15/2017	COMPLETE DATA SOURCE, INC.	\$140.94
12/15/2017	CRYSTAL CLEAN	\$2,038.00
12/15/2017	CULLIGAN WATER CONDITIONING	\$59.70
12/15/2017	GATR TRUCK CENTER	\$571.82
12/15/2017	GILLIG LLC	\$798.42
12/15/2017	G & K SERVICES	\$35.23
12/15/2017	HANIFEN CO. INC.	\$400.00
12/15/2017	HARRISON TRUCK CENTER	\$3,274.89
12/15/2017	HOGLUND BUS CO. INC.	\$84.98
12/15/2017	INFOMAX OFFICE SYSTEMS	\$45.00
12/15/2017	INTEGRITY PRINTING LLC	\$874.00
12/15/2017	INTERSTATE PWR SYS	\$622.68
12/15/2017	IOWA SIGN COMPANY	\$373.50
12/15/2017	KECK, INC.	\$64,924.02
12/15/2017	LINES & DESIGNS, INC.	\$244.00
12/15/2017	LUBE-TEC	\$869.02
12/15/2017	MCMAHON BERGER, PC	\$185.40
12/15/2017	MENARDS INC	\$158.33
12/15/2017	METHODIST OPPUCATIONAL HEALTH & WELLNESS	\$246.00
12/15/2017	MID AMERICAN ENERGY CO.	\$7,770.78
12/15/2017	MIDWEST WHEEL COMPANIES	\$197.62
12/15/2017	MISTER CAR WASH	\$58.84
12/15/2017	MOHAWK MFG & SUPPLY CO	\$657.14
12/15/2017	NAPA AUTO PARTS	\$726.30
12/15/2017	NEW FLYER PARTS	\$3,178.49

ACCOUNTS PAYABLES CHECKS**DART 12-2017**

Document Date	Vendor Name	Document Amount
12/15/2017	NODUS TECHNOLOGIES, INC.	\$242.30
12/15/2017	POLICYWORKS - IOWA, LLC	\$1,757.75
12/15/2017	PORTER, RHONDA	\$50.00
12/15/2017	PRAXAIR DISTRIBUTION INC.	\$336.04
12/15/2017	CENTURYLINK	\$1,097.40
12/15/2017	ROBERT HALF INTERNATIONAL	\$2,560.00
12/15/2017	ROCHESTER ARMORED CAR CO., INC.	\$715.00
12/15/2017	ROYER, THOMAS	\$50.00
12/15/2017	RSM US LLP	\$2,449.00
12/15/2017	SCHNEIDER GRAPHICS, INC.	\$2,645.50
12/15/2017	SHOES FOR CREWS	\$112.96
12/15/2017	SIEREN, RAEANNE	\$61.64
12/15/2017	SPECK USA	\$93,149.00
12/15/2017	SUPPLYWORKS	\$206.64
12/15/2017	TAYLOR, KATHY	\$50.00
12/15/2017	TERMINIX INTERNATIONAL	\$202.00
12/15/2017	SETPOINT MECHANICAL SERVICES LLC	\$391.28
12/15/2017	THOMAS BROTHERS SEPTIC TANK SERVICE	\$175.00
12/15/2017	THOMAS BUS SALES OF IOWA	\$63.88
12/15/2017	TIM HILDRETH CO., INC.	\$1,746.00
12/15/2017	TOMPKINS INDUSTRIES, INC.	\$4.80
12/15/2017	TRANS IOWA, L.C.	\$10,155.85
12/15/2017	TRAPEZE SOFTWARE, INC.	\$188,768.00
12/15/2017	TRIBRIDGE, LLC	\$11,274.65
12/15/2017	T&T SPRINKLER SERVICE, INC.	\$299.90
12/15/2017	ULRICH MOTOR CO.	\$1,804.90
12/15/2017	VERIZON WIRELESS	\$1,288.25
12/15/2017	WASTE CONNECTIONS INC.	\$700.98
12/15/2017	WAYNE DALTON OF CENTRAL IOWA	\$638.25
12/15/2017	WEBSPEC DESIGN	\$105.00
12/15/2017	W W GRAINGER, INC.	\$673.63
12/15/2017	GREATER DES MOINES ICE SPORTS ASSOCIATION	\$250.00
12/22/2017	ABILITY NETWORK, INC.	\$236.00
12/22/2017	ACK ENTERPRISES	\$1,962.43

ACCOUNTS PAYABLES CHECKS**DART 12-2017**

Document Date	Vendor Name	Document Amount
12/22/2017	ADECCO EMPLOYMENT SERVICE	\$1,051.62
12/22/2017	ADSPOSURE	\$6,825.35
12/22/2017	AIR FILTER SALES & SERVICE	\$28.60
12/22/2017	ALESIG CONSULTING LLC	\$2,400.00
12/22/2017	ALTOONA CHAMBER OF COMMERCE	\$756.00
12/22/2017	AMERICAN SECURITY & INVESTIGATIONS	\$176.11
12/22/2017	AMOS, SAMUEL	\$75.00
12/22/2017	MID IOWA OCCUPATIONAL TESTING	\$1,080.00
12/22/2017	BAKER TILLY VIRCHOW KRAUSE, LLP	\$9,224.00
12/22/2017	BANC OF AMERICA	\$74,005.08
12/22/2017	BRAND, GORDON	\$250.00
12/22/2017	BRIXMOR OPERATING PARTNERSHIP LP	\$1,600.00
12/22/2017	BYTEMARK, INC.	\$10,579.31
12/22/2017	CARPENTER UNIFORM	\$4,643.94
12/22/2017	CARTER PRINTING CO., INC.	\$415.01
12/22/2017	CDW GOVERNMENT, INC.	\$7,410.65
12/22/2017	CENTURYLINK	\$3,991.68
12/22/2017	CERTIFIED LABORATORIES	\$345.73
12/22/2017	CHARLES GABUS FORD	\$87,418.74
12/22/2017	CONTROLLED ACCESS OF THE MIDWEST, LLC	\$392.00
12/22/2017	COPY SYSTEMS INC.	\$53.90
12/22/2017	CUMMINS CENTRAL POWER LLC	\$19,007.38
12/22/2017	CUNNINGHAM, GARRY	\$20.00
12/22/2017	DDC ADVOCACY LLC.	\$6,768.75
12/22/2017	DENG, ZIJIE	\$14.00
12/22/2017	DGS-ACQUISITIONS, L.L.C.	\$500.00
12/22/2017	DES MOINES REGISTER	\$275.36
12/22/2017	EB JACOBS LLC	\$90.00
12/22/2017	EGGER, HEATHER	\$72.29
12/22/2017	EMPLOYEE & FAMILY RESOURCES INC.	\$2,259.60
12/22/2017	FACTORY MOTOR PARTS	\$962.48
12/22/2017	FAMILY SUPPORT REGISTRY	\$441.04
12/22/2017	FAMILY SUPPORT PAYMNT CTR	\$187.85
12/22/2017	FASTENAL COMPANY	\$1,125.63

ACCOUNTS PAYABLES CHECKS**DART 12-2017**

Document Date	Vendor Name	Document Amount
12/22/2017	FBG SERVICE CORPORATION	\$5,787.09
12/22/2017	FEDERAL ADVOCATES, INC.	\$2,500.00
12/22/2017	FLYNN WRIGHT, INC.	\$7,196.62
12/22/2017	GATR TRUCK CENTER	\$193.00
12/22/2017	GILLIG LLC	\$1,572.19
12/22/2017	G & L CLOTHING	\$577.08
12/22/2017	GLORIA DEI LUTHERAN CHURCH	\$700.00
12/22/2017	GORDON, RICHARD	\$13.05
12/22/2017	GREATER DES MOINES ICE SPORTS ASSOCIATION	\$250.00
12/22/2017	GRUPEE, MELVIN	\$75.00
12/22/2017	HANIFEN CO. INC.	\$248.75
12/22/2017	HARRISON TRUCK CENTER	\$362.52
12/22/2017	HOGLUND BUS CO. INC.	\$89.34
12/22/2017	INLAND TRUCK PARTS	\$53.44
12/22/2017	INTEGRITY PRINTING LLC	\$2,042.78
12/22/2017	INTERSTATE PWR SYS	\$127.08
12/22/2017	KAMARA, JOSEPH	\$75.00
12/22/2017	KARL CHEVROLET	\$29.44
12/22/2017	KECK PARKING	\$1,430.00
12/22/2017	KING DELIVERY SERVICE	\$224.73
12/22/2017	KOENEKE, JOLENE	\$40.00
12/22/2017	LANDS' END	\$373.90
12/22/2017	LOGIC TREE, LLC	\$8,000.00
12/22/2017	LUBE-TEC	\$1,778.37
12/22/2017	MCMAHON, EMILY	\$2,500.00
12/22/2017	MC MASTER-CARR SUPPLY CO.	\$23.13
12/22/2017	MEDIACOM	\$104.24
12/22/2017	MENARDS INC	\$161.64
12/22/2017	MENGISTU, ABAY	\$77.00
12/22/2017	MID AMERICAN ENERGY CO.	\$3,615.77
12/22/2017	MIDWEST WHEEL COMPANIES	\$124.26
12/22/2017	MILLER, JENNIFER	\$110.00
12/22/2017	MISDU	\$304.71
12/22/2017	MITEL NETSOLUTIONS	\$12.93

ACCOUNTS PAYABLES CHECKS**DART 12-2017**

Document Date	Vendor Name	Document Amount
12/22/2017	MOHAWK MFG & SUPPLY CO	\$608.91
12/22/2017	MONTGOMERY, IRENE	\$250.00
12/22/2017	MOTT, BEVERLY	\$15.00
12/22/2017	NAPA AUTO PARTS	\$1,393.08
12/22/2017	NEW FLYER PARTS	\$9,544.00
12/22/2017	NOBLE AUTOMOTIVE	\$41.35
12/22/2017	NYS CHILD SUPPORT PROCESSING CENTER	\$177.00
12/22/2017	PALMER GROUP	\$3,240.00
12/22/2017	POLK COUNTY SHERIFF	\$254.86
12/22/2017	POLICYWORKS - IOWA, LLC	\$1,750.00
12/22/2017	CENTURYLINK	\$261.45
12/22/2017	RED WING SHOE STORE	\$100.80
12/22/2017	RISER, QUINLAN	\$26.70
12/22/2017	ROBERTS, RUSSELL	\$26.00
12/22/2017	SABEL, JOYCE	\$101.18
12/22/2017	SAFELITE FULFILLMENT, INC.	\$229.95
12/22/2017	SHOES FOR CREWS	\$86.92
12/22/2017	STATE DISBURSEMENT UNIT	\$11.08
12/22/2017	STEW HANSEN'S DODGE CITY	\$188.56
12/22/2017	SUPPLYWORKS	\$1,093.63
12/22/2017	TEAMSTERS LOCAL 238	\$124.50
12/22/2017	TERMINIX INTERNATIONAL	\$246.00
12/22/2017	THERMO KING CORP.	\$95.04
12/22/2017	THOMAS BROTHERS SEPTIC TANK SERVICE	\$175.00
12/22/2017	THOMAS BUS SALES OF IOWA	\$157.56
12/22/2017	TOLAR MFG COMPANY INC.	\$11,700.00
12/22/2017	TOMPKINS INDUSTRIES, INC.	\$58.29
12/22/2017	TRANS IOWA, L.C.	\$189.80
12/22/2017	TRAPEZE GROUP INC.	\$275.00
12/22/2017	TRAPEZE SOFTWARE, INC.	\$328.13
12/22/2017	TRIBRIDGE, LLC	\$300.00
12/22/2017	TRIPLETT COMPANIES	\$479.87
12/22/2017	TRUENORTH COMPANIES, L.C.	\$3,333.33
12/22/2017	TWILIO, INC.	\$546.20

ACCOUNTS PAYABLES CHECKS
DART 12-2017

Document Date	Vendor Name	Document Amount
12/22/2017	ULINE	\$685.32
12/22/2017	UNITED PARCEL SERVICE	\$48.87
12/22/2017	UNITED WAY	\$864.47
12/22/2017	UNIVERSAL PRINTING SERVICES	\$1,075.00
12/22/2017	U.S. DEPARTMENT OF EDUCATION	\$459.01
12/22/2017	WAGE WORKS	\$114.00
12/22/2017	WALMAN OPTICAL CO.	\$10.00
12/22/2017	WAYNE DALTON OF CENTRAL IOWA	\$186.00
12/22/2017	WELLMARK BLUE CROSS	\$90.66
12/22/2017	WEST BEND MUTUAL INSURANCE CO.	\$59,640.80
12/22/2017	WOLFE, CHERYL	\$59.98
12/22/2017	WOODMAN CONTROLS COMPANY	\$1,545.30
12/22/2017	W W GRAINGER, INC.	\$18.40
	TOTAL	\$1,228,663.27

From: Zac Bales-Henry
To: [Cownie, Frank](#)
Subject: DART Commission
Date: Wednesday, December 06, 2017 11:22:35 AM

Morning Frank,

If you have time, I would be great to grab a coffee. I'd like to touch base regarding dart as well as the relationship between our two cities. I know your schedule is busy, so feel free to throw out the times that work best for you.

Thanks,
ZBH

--

Zac Bales-Henry | Broker Associate
Coldwell Banker Mid-America Group, Realtors®



Mobile: 515.494.7772

Desk: 515.224.8658

Email: ZBH@cbdsm.com

Address: [601 East Locust Street | Des Moines, IA 50309](#)

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From: Vicky Barr
To: [Cownie, Frank](#)
Cc: [Goldbeck, Pa V.](#)
Subject: DMPA Code of Ethics Form - ACTION REQUIRED
Date: Friday, December 02, 2016 1:46:30 PM
Attachments: [Policy - Code of Ethics.pdf](#)
[Policy - DMPA Code of Ethics Disclosure Statement.pdf](#)

Good afternoon Mayor Cownie – thank you for calling in for our board meeting yesterday. I heard from Laura that you wanted to abstain from the property motion so I will make sure to note that on the minutes.

This is a reminder to please review and sign the Code of Ethics form as soon as possible as our deadline was yesterday. For your convenience I have attached to this email for you and included Pa. Please fax to 515-246-2305 or scan and email back to vickyb@desmoinesperformingarts.org ASAP. Thank you for your attention to this and if you should have any questions do not hesitate to contact me at 515-246-2302 or at vickyb@desmoinesperformingarts.org.

Vicky Barr

Executive Assistant
Des Moines Performing Arts
Phone: 515-246-2302
Email: vickyb@DesMoinesPerformingArts.org



**DES MOINES
PERFORMING ARTS**

CIVIC CENTER • STONER THEATER • TEMPLE THEATER • COWLES COMMONS

DES MOINES PERFORMING ARTS CODE OF ETHICS

Ethics

The successful business operation and reputation of Des Moines Performing Arts is built upon the principles of fair dealing and ethical conduct of our directors, employees and volunteers. We encourage ethical behavior by all persons involved with Des Moines Performing Arts.

Des Moines Performing Arts will comply with all applicable laws and regulations and expects its directors, employees and volunteers to conduct business in accordance with the letter, spirit, and intent of all relevant laws and to refrain from any illegal, dishonest, or unethical conduct.

Directors will be asked to sign a Code of Ethics statement annually.

Confidentiality

Des Moines Performing Arts will maintain the appropriate confidentiality of information. We will ensure that information is accurate, objective, timely and understandable. Directors, employees and volunteers are not to disclose any information, which is not ordinarily made available to the public. This information includes finances, personnel matters, member lists, expenditures, fund raising, databases, trade information, trade secrets, and other confidential business information.

This policy to protect confidential information applies to possible, present, and previous directors, employees and volunteers. The obligation to protect information applies independent of who developed the information.

Conflict of Interest

Directors, employees and volunteers have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest.

An actual or potential conflict of interest occurs when a director, employee or volunteer is in a position to influence a decision that may result in a personal gain for that person or for a relative as a result of Des Moines Performing Arts' business dealings. For the purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the director, employee or volunteer is similar to that of persons who are related by blood or marriage.

No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if directors, employees and volunteers have any influence on transactions involving purchases, contracts, or leases, it is imperative that they disclose the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties. Directors are to disclose to the Audit Committee Chair and employees and volunteers are to disclose to the Chief Operating Officer.

Business dealings with outside firms should not result in unusual gains for outside firms. Unusual gain refers to bribes, bonuses, special fringe benefits, unusual price breaks, and other windfalls designed to ultimately benefit either the employer, the employee, or both.

Whistle Blower

If you as a director, employee or volunteer observe or become aware of any matters that suggest potential fraudulent or unethical behavior, questionable accounting, or improper auditing by anyone associated with Des Moines Performing Arts, you should inform the Audit Committee of the Board of Directors using the following procedures. These procedures may be amended from time to time by the Board of Directors of Des Moines Performing Arts.

- **Scope of complaints.** Any director, employee, volunteer or non-employee of Des Moines Performing Arts who has a complaint regarding alleged financial improprieties, accounting matters, internal accounting controls, auditing matters, internal fraud or unethical behavior or similar concerns may submit a written complaint pursuant to these procedures (hereinafter referred to as a "Complaint").
- **Method of Submitting Complaints.** A Complaint by a director, employee or volunteer of Des Moines Performing Arts may be submitted in a confidential and anonymous manner without revealing their personal identity. A Complaint shall be directed to the Chairperson of the Audit Committee, Eric Crowell, at (515) 241-6396 or (515) 241-5891.
- **Content of Complaints.** Each Complaint must be in writing to be considered, and must contain enough information and specificity to allow the Audit Committee to investigate the Complaint. Complaints made anonymously shall be treated confidentially to the extent possible, consistent with the need to conduct an adequate investigation.
- **Any Complaint that is received by a director, employee or volunteer of Des Moines Performing Arts shall be immediately forwarded to the Chairperson of the Audit Committee.**
- **Directors, employees or volunteers who make or receive a Complaint or who otherwise have involvement in administration of the matter must not disclose information pertaining to the Complaint, other than as necessary for the proper administration of the matter.**
- **A "whistle blowing" director, employee or volunteer will not suffer punishment or repercussions for providing truthful information. Such repercussions may include, but are not limited to removal from the board, firing, demotion, harassment, failure for consideration for promotion, any other form of discrimination, or removal from being a volunteer.**
- **The Audit Committee Chair will communicate each Complaint received to the Audit Committee. The Audit Committee will then investigate the Complaint and take appropriate action as needed.**

DES MOINES PERFORMING ARTS

Code of Ethics Disclosure Statement

To assure compliance with all applicable laws and to preserve its status as a nonprofit 501(c)(3) organization under the Internal Revenue Code, it is important that Des Moines Performing Arts avoid conflicts of interests and abide by the Code of Ethics in all of its business dealings, transactions or arrangements. To assist Des Moines Performing Arts in determining whether an actual or potentially perceived conflict of interest may exist, the undersigned, on his/her own behalf and on behalf of the undersigned's immediate family members, hereby certifies that except as disclosed below:

1. I know of no facts or circumstances under which my service as a volunteer member of the Board of Directors of Des Moines Performing Arts would create a conflict of interest.
2. To my knowledge, I have no ownership or investment interest (other than a passive investment of 5% or less) in any entity with which Des Moines Performing Arts conducts business or that provides goods or services to Des Moines Performing Arts.
3. I am not an employee of Des Moines Performing Arts and I do not receive any compensation from Des Moines Performing Arts.
4. I receive no personal benefits from Des Moines Performing Arts different from those generally available to the public on comparable terms and under similar circumstances.

Describe exceptions, if any: _____

Should circumstances change it is incumbent upon me to timely notify the Chair of the Board of Directors or the President and Chief Executive Officer of Des Moines Performing Arts of the changed circumstances and execute a revised Disclosure Statement.

By: _____

Date: _____

From: Raymond Hopkins
To: [Cownie, Frank](#)
Subject: Document Transmittal - Grow Your Global Markets
Date: Sunday, April 29, 2018 10:20:38 AM
Attachments: [image001.png](#)
[Hopkins978-1-4842-3114-2.pdf](#)
[HopkinsProductFlyer-9781484231135.pdf](#)

Mayor T.M. Franklin Cownie
675 Harwood Drive
Des Moines, Iowa 50312

Dear Mr. Mayor (Frank),

Given your interest in expanding the reach of small- to medium-size business in Des Moines, Iowa and exporting, I thought you might be interested in having a copy of my October 2017 book, "[Grow Your Global Markets](#)" available via Amazon and [Apress Media](#) websites. This book targets small to medium-size businesses in an effort to simplify exporting, discover exportable products and services, and determine and select the best target market entry alternative while ensuring the firm gets paid.

Should you find it an interesting read, I welcome an expression of your comments and observations.

Respectfully yours,

Ray

Dr. Raymond A. Hopkins

Chandler, AZ
(H) 480-926-7673
(M) 602-561-8586



www.raymondhopkins.net
<https://www.amazon.com/author/raymondahopkins>

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Grow Your Global Markets

A Handbook for
Successful Market Entry

Raymond A. Hopkins

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A HANDBOOK FOR SUCCESSFUL MARKET
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Grow Your Global Markets: A Handbook for Successful Market Entry

Raymond A. Hopkins
Chandler, Arizona, USA

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The Apress Business Team

*To the memory of my parents,
Virginia L. and William P. Hopkins,
who provided encouragement and
guidance in ways they never imagined.*

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About the Author



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Preface

In essence, this book is a comprehensive primer for aspiring and current exporters and others who want to simplify their global market entry; discover exportable products and services; and determine and select their best target market entry alternative, while ensuring they are paid. U.S. small- to medium-sized business owners ([SMEs] with less than 500 employees) interested in global business will learn how to overcome the most significant challenges and barriers to entering foreign markets.

Interestingly, based on research¹ conducted in a survey of 530 small business owners in 2016 by the [National Small Business Association](#) (NSBA) and its council, the [Small Business Exporters Association](#) (SBEA), small-business owners not currently exporting, perceive the largest barrier is a lack of exportable products and services. Thirty-seven percent of non-exporters said they do not know enough about exporting and are not sure where to start, and 24 percent cited concerns over being paid by their foreign customer, regulatory barriers, and complexity. When asked whether they would be interested in exporting in the future, if some of these concerns were addressed, 49 percent said they would. Among current exporters, Canada maintained its number one spot in terms of countries to which small firms exported, with Mexico, the United Kingdom, and China rounding out the top four. When it comes to emerging markets, SMEs cited North America, Northern Asia/Pacific Rim, and South America as the regions that hold the most potential for their future exports, and, notably, regions in which the United States has many free trade agreements. *Grow Your Global Markets* addresses these SME concerns.

¹NSBA/SBEA 2016 *Small Business Exporting Survey*. Retrieved from <http://www.nsba.biz/wp-content/uploads/2016/04/Export-Survey-2016-Final.pdf>.

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Introduction

Are you and your firm feeling the effects of globalization? Today, globalization, the integration of markets, nation-states, and technologies,² impacts nearly every business, including yours! The internationalization of markets and technological progress in logistics, distribution, and communication enable nearly every business to buy, sell, and cooperate in global markets, allowing their customers to locate the best product offering. As a result, you and your firm operate in a worldwide economy responsible today for 40 million U.S. trade-dependent jobs³ and approximately 6 million U.S. factory jobs⁴—roughly half of all manufacturing employment, whether or not they have any interest in global business activities. In the face of globalization, small businesses like yours must evaluate their strengths, weaknesses, opportunities, and threats and then develop strategies that effectively respond to the globalized business environment in which they operate. And those companies that do not recognize this trend will likely become a fatality of globalization. If you and your firm are growth oriented—and what business is not?—you should grow global markets as an important strategic option allowing you to do the following:

- Reach new customers/markets with little or no competition;
- Reduce their dependence on a limited number of major customers;
- Even out business cycle-related demand fluctuations;
- Extend the life of niche products to new markets; and
- Develop a global network of contacts and partners that improves their offerings to established customers.

²This is done in a way that enables individuals, corporations, and nation-states to reach around the world farther, faster, deeper and cheaper than ever before. Thomas Friedman, *The Lexus and the Olive Tree* (New York: Anchor Books, 2000), 9.

³Trade Partnership Worldwide, LLC (January 2016), *Trade and American Jobs The Impact of Trade on U.S. and State Level Employment: 2016 Update*. Retrieved from: <http://tradepartnership.com/wp-content/uploads/2016/02/Trade-and-American-2016.pdf>

⁴Jeffrey Hall and Chris Rasmussen, *Jobs Supported by State Exports 2014*. (Washington, DC: Office of Trade and Economic Analysis, International Trade Administration, Department of Commerce, April 9, 2015). Retrieved from http://www.trade.gov/mas/ian/build/groups/public/@tg_ian/documents/webcontent/tg_ian_005411.pdf

Long-term exporters are self-assured, adaptable, and resilient in selling to a more diverse group of customers.

How can you sell abroad? If you want to grow and internationalize your income, determine what among your products and services you can export, picking up the transaction tools that ensure you avoid risk and get paid by international customers. Grow your global markets by developing essential internal international business expertise, or, with the backing and full support of management, hiring an international business specialist and/or retaining an international business consulting company. You will need this expertise to assess your export potential, develop an effective global strategy, research countries and markets appropriate for your products and services, and develop a marketing plan/communication strategy that ultimately results in contracts to ship your product and deliver services to previously untapped global markets. It is doable and you and your team can do it!

The demand is out there. You should be too! Thinking bigger pays off. Borders should not be blockers. Grow beyond them. You may feel apprehensive? You should view these challenges as opportunities to grow your business and develop additional competitive advantages beyond domestic shores. Many small- and medium-sized U.S. businesses, like yours, could be more successful and sustainable, if they would only export their products or adopt other international market entry modes. Some of your U.S. counterparts and competitors are already actively engaged in global markets. Others have yet to begin. Don't be afraid and hesitant. Overcome any fears; learn the tools and tactics and simply "grow beyond them." If you and your firm are a small- to medium-sized business, shouldn't you consider growing your global markets now? It has never been easier with the Internet and other advanced communication technologies.

Introducing Growth in Global Markets

All those trucks and barges that carry our goods to port are vital connections to the only force which can balance our trade deficit: export. We must keep doing what we do best if we are going to get America out of the red.

—Jo Ann Emerson, U.S. Representative for Missouri's 8th congressional district

Today, growing your global markets has never been easier. With recent advancements in technology, any small- to medium-sized company can grow its business in international markets. It is not only simpler and more doable to sell internationally, but it will increase your bottom line in unimaginable ways. *If you can envision it, you and your team can do it.*

Do You Know Where to Start Your Journey to Growing Global Markets?

Whether you are just getting started or are already experienced in international business, this book will be your “virtual coach” helping you from start to finish; and more importantly, it will help you establish rewarding relationships with international customers.

Does growing your global markets sound intimidating and possibly overwhelming? It does not have to be. Global market expansion offers numerous opportunities for companies large and small to boost their revenues and profits by introducing new, innovative products and services to the global marketplace.

To get started, let's back up a bit and take a look at how well U.S. small- and medium-sized enterprises (SMEs: those organizations employing fewer than 500 employees) like yours have done growing their global markets. According to the U.S. Small Business Administration, small- to medium-sized businesses produce nearly 50% of the non-farm GDP and account for 60% of the net new jobs. As of May 2017, SMEs are still optimistic about their economic prospects, but they have yet to see the impressive levels of hiring and spending anticipated in welcoming a Republican administration to the nation's capital.ⁱ Hmm... Is that how you are finding the U.S. business environment in 2017?

How about comparing the characteristics and performance of U.S. SMEs with the export activities, barriers, and opportunities of their European Union (EU) counterparts?ⁱⁱ As of January 2010 when the U.S. government last addressed this topic, U.S. SMEs accounted for the vast majority of firms that produced approximately half the gross domestic product generated by nonagricultural sectors within the U.S. economy accounting for about 30% of merchandise exports between 1997 and 2007. Unlike larger firms, U.S. SMEs tended to aim their merchandise exports—labor intensive items such as wood products, apparel, and accessories—at affluent markets such as Hong Kong, Israel, and Switzerland. Available services export data suggest the United Kingdom and Canada are two important destinations for affiliates in two services industries—finance and insurance; and professional, scientific, and technical services. If we compare the U.S. and European markets, we see the U.S. market is more integrated than Europe's, and U.S. firms that export tend to be larger than their counterparts in the EU. This explains why estimated exports by manufacturing SME firms in the EU in 2005 amounted to approximately \$231–\$275 billion (about 31% of total EU exports), compared to the \$65 billion in exports (about 13% of total U.S. exports) made by similarly defined U.S. SMEs.

By mid-2010 the government determined that it provided a wider range of support for pre-export financing and short-term credit than is generally available in EU countries. However, SMEs in the EU appeared to have access to more resources and a higher level of assistance in foreign markets as well as more financial support for participating in international trade fairs than U.S. SMEs did.

In their export operations U.S. SMEs faced several obstacles that included insufficient access to finance, complex and sometimes nontransparent domestic and foreign regulations, rising and unpredictable transportation costs, the small scale of SME production, tariff and nontariff barriers, time-consuming foreign customs procedures, language and cultural differences, and lack of knowledge of foreign markets. Even so, U.S. SMEs found tariff reductions, reduction or elimination of nontariff barriers, better market access, easier interactions with customs, trade facilitation, intellectual property protection, a more efficient and transparent regulatory environment, and dispute resolution mechanisms—all associated with U.S. Foreign Trade agreements (FTAs) and other trading arrangements had improved the exporting environment.

By November 2010 the government reported U.S. exporting SMEs outperformed their non-exporting SME counterparts by several measures. Whether they dealt in services or manufacturing or exporting, U.S. SMEs showed higher total revenues, faster total revenue growth, and higher labor productivity than their non-exporting U.S. SME counterparts. These firms served foreign clients primarily through direct exports. SMEs that exported services, a very small share of all U.S. services SMEs, were more export intensive than large services exporters. U.S. multinational companies that export, which is even less common, were nearly three times more export intensive than large U.S. multinationals. SMEs also participated in the export economy by exporting indirectly through wholesalers and other intermediaries or selling intermediate goods or services domestically to large and small firms that used these intermediate inputs to produce exported goods or services.

Paging forward to April 2017, the U.S. Government Census Bureauⁱⁱⁱ reported a total of 294.8 thousand firms (106,977 manufacturers, 125,245 wholesalers, and 155,175 other companies) linked to U.S. export transactions in 2015. The exporting efforts of these firms accounted for \$1,335 billion, a staggering small export volume that should be millions greater. And 228,621 companies of the total, which includes yours, are identified as small- and medium-sized exporters.

In contrast, long-term exporters (those exporting more than five years) are self-assured, adaptable, and resilient. Having developed a global awareness of their brands and sound exporting plans, they now sell to a more diverse group of customers using social media as the source of most of their sales leads. You and your firm could be among them! In addition, by establishing channels of distribution in foreign markets suited to their products before their competitors do, they will have increased their global competitive advantage, an advantage you and your team should seek. So why don't you and more American firms like yours go global by growing their global markets?

Growth in Global Markets

Fundamentally, I believe that the U.S. can improve its international standing and its national security by expanding trade and strengthening its relationships...

—Richard Neal, U.S. Representative for Massachusetts's 2nd congressional district

America cannot grow its economy, foster entrepreneurship, or lift the wages and incomes of its workforce unless small- and medium-sized businesses reach beyond U.S. borders and sell products and services to the vast marketplace that lives outside the United States. Despite complaints about trade imbalances, effects on domestic economies, currency upheavals, and loss of jobs, the reality of goods and services continually crossing borders will not go away. International trade will continue to be the engine that runs most nations.

Just as it always has during earlier cycles of growth and recession, exporting of goods and services is a vital contributor to the U.S. economy. In March 2017, export of goods and services totaled \$191 billion, a \$71.2 billion increase over the 2006 total of \$119.8 billion—a great improvement over the last 11 years.ⁱ March 2017 figures reported by the U.S. Department of Commerce Bureau of Economic Analysis (BEA) show export good surpluses with selected countries, in billions of dollars, with Hong Kong (\$2.9), South and Central America (\$2.6), Singapore (\$0.5), United Kingdom (\$0.5), and Brazil (\$0.2). Goods export deficits were recorded, in billions of dollars, with China (\$31.4),

European Union (\$10.0), Mexico (\$6.5), Japan (\$6.5), Germany (\$5.0), South Korea (\$2.5), Italy (\$2.1), Canada (\$1.9), India (\$1.7), OPEC (\$1.6), Taiwan (\$1.1), Saudi Arabia (\$0.8), and France (\$0.1).

In 2015, jobs supported by exports totaled an estimated 9.8 million with goods exports supporting an estimated 6.7 million jobs and services exports supporting 3.1 million jobs.ⁱⁱ Goods exports to Canada supported the greatest number of U.S. jobs followed by Mexico, China, Japan, and the United Kingdom (UK). The 15 destinations for U.S. goods exports that supported the greatest number of jobs supported almost 4.9 million jobs in the aggregate. The 15 goods export destinations that supported the greatest number of jobs are presented in Figure 1-1.

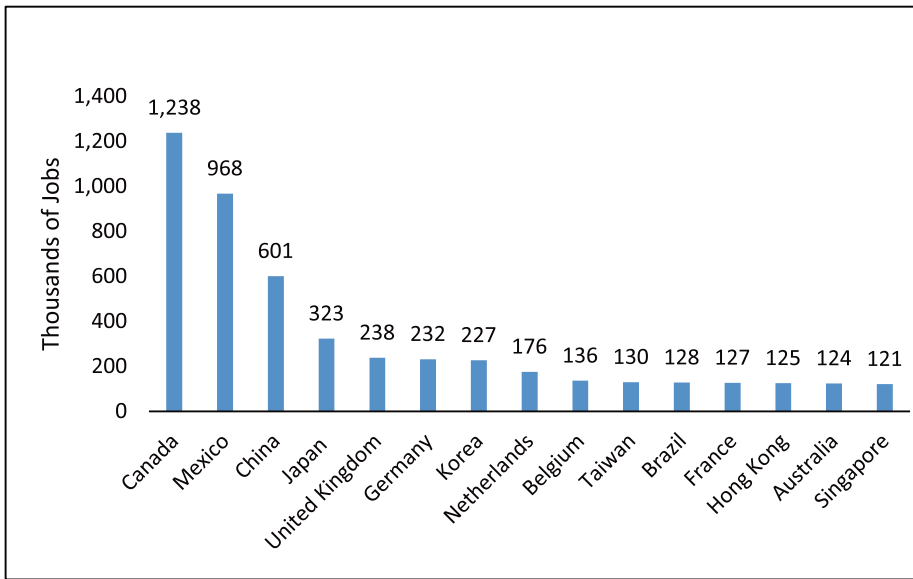


Figure 1-1. Top 15 Destinations, Jobs Supported by U.S. Goods Export in 2015

In April 2016,ⁱⁱⁱ the International Trade Administration reported an estimated 11.5 million jobs were supported by exports.

The Bureau of Economic Analysis's (BEA) most recent data indicates the United States exported services to over 70 countries in 2015 with exports to the United Kingdom outnumbering those to Canada, China, Japan, and Ireland. BEA 2015 data indicates these top 15 destinations supported 3.1 million American jobs or 65% of the total as presented in Figure 1-2.^{iv}

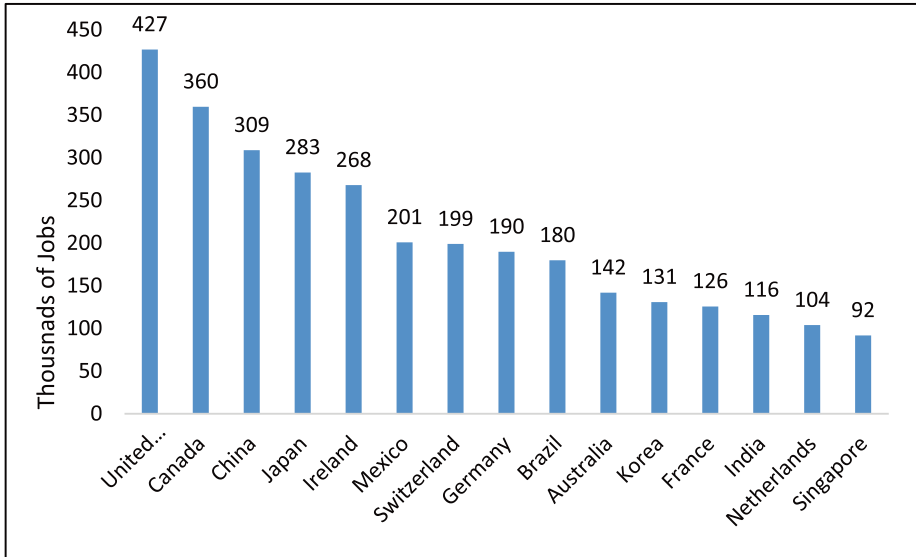


Figure I-2. Top 15 Destinations, Jobs Supported by U.S. Services Exports in 2015

Clearly, on the basis of this government data, American exporting is important and demonstrates a need to improve. As our economy recovers from the Great Recession, U.S. businesses can rely on exporting to realize their growth potential. The U.S. Department of Commerce International Trade Administration (ITA) has many programs supporting small- and medium-sized enterprises in developing that potential. Its programs include business counseling offered at home through a network of over 100 U.S. Export Assistance Centers and overseas through commercial officers based in more than 50 U.S. embassies. The ITA also has offices that campaign for U.S. commercial policy interests in bilateral and multilateral settings. These offices handle business regulation and product standards in addition to protecting and enforcing intellectual property rights and issues that affect U.S. exports.

The challenges that now lie ahead for U.S. businesses selling in the world market—from slowing markets to regulatory and other barriers—make international trade (i.e., growing our global markets) more crucial than ever to ensure future international business success.

The Benefits of Global Market Growth

Now more than ever it is time to grow our global markets, drive economic growth, and improve our standard of living. So what is economic growth? Long ago a country's natural resources determined the level of economic development it would meet. Today national economic growth is not as

dependent on natural resources. It's more dependent on a country's use of its productive resources—physical, human, and natural capital. Theoretically, then, economists use gross national product (GNP) per capita or gross domestic product (GDP) per capita as statistical indicators of how well a country uses its resources. GNP/GDP takes into account all goods and services produced for sale, whether they are sold domestically or sold overseas.

The Benefits of Economic Growth

Should a country grow its economy extensively using more resources or intensively using the same amount of resources more productively? Specifically, higher output and positive economic growth enable a country and its economy to accomplish the following:

- Provide consumers and workers with more goods and services, thus a higher standard of living.
- Increase rates of employment.
- Reduce government borrowing and debt.
- Invest in clean technologies.
- Reduce rates of poverty.
- Increase government income and expenditures to fund superior public services, public transportation, critical research and projects with the potential to further economic development.
- Increase and sustain capital investment.
- Enhance business confidence of those running their own businesses.
- Devote more resources to promote recycling and the use of renewable resources.

For these reasons, all countries strive for positive economic growth. This is equally true of the people that inhabit them - the extreme poor, the vulnerable, the middle class, and the rich. The extreme poor, earning about \$1.90 per day per person,^v are those that strive to provide themselves with most basic of human needs - food, safe drinking water, sanitation facilities, health, shelter, education, and information. A society's vulnerable are those unable to anticipate, cope with, resist and recover from the impacts of natural hazards - children, pregnant women, elderly people, the malnourished and the sick.^{vi} The middle class, however, is another matter entirely, especially from the standpoint of any business marketing to consumers across the globe. For

the small- to medium-sized business seeking new customers, the people comprising the global middle class, by the standards used by any country, includes those earning between US \$10 and US \$100 per day in purchasing power parity (PPP) terms,^{vii} the kind of disposable income that has made cars, televisions and other consumer goods affordable in the West and today is expanding in the East. This income group, forecast to increase rapidly over the next 20 years,^{viii} includes business people, managers, doctors, lawyers, and teachers. Lastly, the rich are that small social group earning more than US \$110 per day that can afford any standard consumer good.

Environmental Forces That Make International Business Different

As a small- to mid-sized business owner/person competing in a domestic marketplace you are accustomed to managing internal forces—capital, raw material, and people that you manage and face many uncontrollable forces that include, among other things:

- **Your competition** – their numbers, activities, and locations—both domestic and foreign.
- **Distributive forces** – agencies for distributing goods and services.
- **Economic forces** – Gross National Product, Gross Domestic Product, unit labor costs, and the personal and industrial consumption variables that impact your ability to do business.
- **Socioeconomic forces** – characteristics and distribution of populations inhabiting your home marketplace.
- **Financial forces** – interest and inflation rates, taxation, income, and expenses, etc.
- **Legal forces** – laws governing how and with whom you do business.
- **Physical forces** – topography, climate, natural resources.
- **Political forces** – local, state and federal political climate, and government structure.
- **Sociocultural forces** – attitudes, values, and beliefs of the local, state, and national culture.
- **Workforce issues** – composition, skills, and attitudes.
- **Technological forces** – skills and equipment that convert resources into the product.

Should you expand your business to foreign markets, you subject your firm to still another set of uncontrollable forces that are the same in all environments, both foreign and international. Shockingly, these occur and operate differently, are driven by different values, and can be difficult to assess. By operating in foreign markets your firm will meet new issues requiring a change of your business strategies and practices to adapt to the new environmental realities that emerge. These include the following:

- **Cultural forces** – According to Hofstede,^x culture is “the collective programming of the mind which distinguishes the members of one human group from another.” Given that culture affects consumers’ behavior, understanding cultural dissimilarities is crucial for the success of international marketing.^x No two cultures are the same and understanding both the social and business cultures of a target market are essential to success.
- **Level of competition** will likely be more intense and complex than what you experience in your domestic marketplace.
- **Technological forces** aiming to make continual cost reductions and improvements in products and services can vary substantially in foreign markets. If your product or service requires a high degree of technological sophistication to use or carry out, then markets with low levels of technology will not be suitable for your business.
- **Logistics** – Like technology, availability, and quality of local—transportation, communication, and energy networks—and business infrastructures in foreign markets will be at different levels of development. This may well have an impact on your ability to deliver your products. It is important to research the target market and understand how goods are moved around the country before you commit to expanding your business in that market.
- **Media** – Advertising your product/service will be subject to the types and quality of media available in your target market(s). Not everyone is connected to the Internet, let alone is able to read and write, requiring you to select the most appropriate media.
- **Political and governmental forces** of the host country and the general international environment affect foreign firms and their products. The key is to understand that once you are in a foreign market you must abide by the rules and laws of that country, not the ones in your own

market. It is also important to note that relations between countries and governments have important effects on the operations of international companies.

- **International legal forces** – Countries determine their laws based on the needs of their citizens, not the concerns of foreign companies. International law is a gentleman's agreement that is honored, but not always.
- **Important tax considerations** – The United States has a worldwide income tax system that taxes a U.S. firm on its worldwide income as opposed to only taxing income from U.S. sources. In contrast, many foreign countries only tax their multinational firms' domestic income and not foreign sourced income. In addition, a U.S. firm will face additional income taxation when it repatriates to the United States income accumulated in a foreign subsidiary.^{xi}

As one can see from this list, the small- to mid-sized business owner/person and senior management marketing to a foreign market must face multiple hurdles to be successful. Expanding one's business into foreign markets can be done by mastering these forces and monitoring environmental change by trusted in-country representation and/or regular marketing visits, in addition to consultation with qualified legal counsel^{xii} and tax specialists.

Determining Your Role in Global Markets

We want to help U.S. entrepreneurs, small business owners, and brands and companies of all sizes sell their goods to the growing Chinese consumer class. Chinese consumers will get to buy the American products they want. This, in turn, will help create American jobs and increase U.S. exports.ⁱ

—Jack Ma, Founder and Executive Chairman of [Alibaba Group](#)

Your financial team's sound analysis of start-up costs will determine the success of your firm's entry into a new foreign market. U.S. companies, especially those new to global expansion, tend to overlook certain important factors during the due-diligence phase of international expansion. An expansion strategy's consideration of market research and planning, the competition, government and legal requirements, cultural habits, and risk will impact the financial analysis. The financial plan should gauge returns on minimal risk where the cost of market entry fits the target budget without being so rigid that responding to market changes is difficult, if not impossible. You should also determine the impact of currency fluctuation, if you plan to reap and return profits generated outside the country. Should the target foreign market's laws and regulations prohibit or complicate repatriation, you and your team may choose to reinvest revenues there.ⁱⁱ

Companies must understand the target market's unique requirements as well as the form of market entry, from tax laws to employment contracts to local business customs, in order to truly understand the cost ramifications there. To do otherwise makes the task of accurately estimating the cost of establishing and operating in a new market impossible. There is no substitute for a comprehensive cost-benefit analysis that possibly involves decisions regarding the following:

- Capital budgeting involving the analysis of investment opportunities, sourcing for raw materials, for production efficiencies and gaining access to local expertise.
- Financing of those activities including the currency type and short-term trade finance.
- Capital structure – the proportions of debt and equity for global operations.
- Cash management – how to optimize cross-border cash flows.
- Working capital management - establishing invoicing policies (which currency), pricing strategies (how much) cash flow networks, accelerating cash flow repatriation and funds positioning.

Most U.S. companies approach expansion to another country under the mistaken presumption that their target country market(s) operate the same way the U.S. marketplace operates. They typically develop a list of common domestic expenses that might include employer social security contributions, corporate income taxes, and office operating expenses, and then make adjustments to account for target country tax laws, real estate costs, and other expenses. The reality is that each country, like the United States, operates according to its own set of complex, constantly changing laws governing how business operates. Absent familiarity with a target country's business laws, customs and practices can expose the uninitiated business to significant hidden cost and risk.

Take for example the difference between European employment law and U.S. employment law. The unique U.S. employment “at will” doctrine does not exist in European employment law and can be costly in time and dollars to those unfamiliar with this different approach to employment.ⁱⁱⁱ Overlooked factors can result in surprise costs that any company considering overseas expansion can overcome by partnering with a local institution and/or retaining outside expertise.

If you are going to “go global,” make sure you invest sufficient time and effort to identifying *all* the costs of operating in your target market to ensure you avoid unexpected expense.

Consider the Profit Potential of International Expansion

Each year, many entrepreneurial, growing, and developing companies contemplate international expansion as a marketing and growth strategy. When developing a strategic blueprint to launch international business expansion, developing companies and their consultants must always consider the potential profit of that undertaking and weigh this against the potential risks before embarking on the effort. Calculating the profit potential clarifies the big picture, especially when dealing with an expansion whose profitability can wildly vary under different scenarios. A product's profit potential is the potential to generate revenue, which, after expenses, leads to net income, a projection, not a guarantee. For example, the simple profit potential^{iv} is then the following:

$$100 \text{ units in inventory} \times (\text{sale price of } \$5 \text{ per unit} - \text{expenses of } \$3 \text{ per unit}) = \$200 \text{ profit potential}$$

Put another way: $I \times (P - E) = PP$, where: I = inventory or potential demand, in units, P = sale price per unit, E = expenses per unit, and PP = profit potential. Note potential demand multiplied by sale price per unit equates to **expected, not guaranteed revenue**. Expected revenue less expenses, therefore, equals profit potential.

Let's dig a bit deeper into the concept using an example with the fictitious aerospace company, ABC Industries (ABC). ABC is the maker of commercial and military aircraft and helicopters. Unfortunately for the government consumer, ABC Industries only produces a standard version of each product. ABC Industries accounts for the expenses of each product separately. Let's take this step by step.

Step 1. Estimate Future Revenue

Revenue – Start by calculating the profits you anticipate in the new market. Begin by determining the size of the market. In particular, research figures of equivalent products, if any, and estimate the number of prospective customers deciding on the portion of the market niche you seek to net. You may be lucky enough to claim the entire market share, but don't overestimate your initial success. ABC Industries will want to multiply its estimate by a price the market can tolerate, taking into consideration the prospect of domestic and international competitors, landed cost, respectable profit, and converting this price into its own currency.

ABC Industries anticipates the following pricing and demand for its products (see Figure 2-1):

- Fighter Aircraft: Sale price of \$350,000 per plane; projected demand of 100 units this year.
- Commercial Aircraft: Sale price of \$200,000 per box car; projected demand of 50 units this year.
- Helicopters: Sale price of \$15,000 per car; projected demand of 1,000 units this year.

Revenue Calculation			
Product	Anticipated Demand	Sales Price	Revenue
Fighter Aircraft	200	\$350,000	\$70,000,000
Commercial Aircraft	25	\$200,000	\$5,000,000
Helicopters	1,000	\$150,000	\$150,000,000
Revenue			\$225,000,000

Figure 2-1. Revenue Calculation

Step 2. Estimate Your Variable Costs

Variable Costs are those monthly costs to you of the goods or services you'll sell as part of achieving your sales estimate. They're called variable, or sometimes incremental, because they go up or down depending on the volume of products or services you produce or sell (see Figure 2-2). They commonly include these:

- Direct materials – charges to expense when the associated products are sold.
- Sales commissions – charges an international representative earns when sales transactions are completed.
- Billable labor - charges to expense when the associated sales transactions are completed.
- Labor – costs incurred for employee labor based on the number of units produced.
- Tariffs – costs charged by a foreign government applied to imported goods.

- Packing - costs incurred to ensure delivery arrives in tact for customer use.
- Shipping – depending on the Incoterms of sale you negotiate with your customer for costs incurred by freight forwarders and actual transportation expense incurred in delivering the product.

Variable Expense Calculation			
Product	Anticipated Demand	Variable Expenses	Revenue
Fighter Aircraft	200	\$125,000	\$25,000,000
Commercial Aircraft	25	\$100,000	\$2,500,000
Helicopters	1,000	\$35,000	\$35,000,000
Expenses			\$62,500,000
Gross Profit			\$162,500,000

Figure 2-2. Variable Expense Calculation

Step 3. Estimate Your Fixed Costs

Fixed costs are business expenses that do not depend on the level of goods and services you offer. Initial operating costs distinguish international versus domestic markets. Researching the market will consume staff time, if you don't outsource market research. Research costs include those costs you will incur in uncovering regulatory/legal issues; cultural behavior; translation; and finding the in-country assistance you might require, such as representation. If you elect to manufacture product in-country, you'll need to also estimate and include the cost of assets and their operation associated with that effort (see Figure 2-3).

Fixed Expense Calculation			
Product	Anticipated Demand	Fixed Expenses	Revenue
Fighter Aircraft	200	\$80,000	\$16,000,000
Commercial Aircraft	25	\$64,000	\$1,600,000
Helicopters	1,000	\$22,400	\$22,400,000
Expenses			\$40,000,000

Figure 2-3. Fixed Expense Calculation

These you will subtract from your price as well (see Figure 2-4).

Profit Potential Calculation			
Product	Anticipated Demand	Profit Potential	Total Profit Potential
Fighter Aircraft	200	\$145,000	\$29,000,000
Commercial Aircraft	25	\$36,000	\$900,000
Helicopters	1,000	\$92,600	\$92,600,000
Profit Potential			\$122,500,000

Figure 2-4. Profit Potential Calculation

Step 4. Calculate Your Gross Profit Margin

It's also useful to know your gross profit margin. Gross profit margin measures the difference between the costs of producing a product or providing a service and what you're selling it for. In short, it lets you know how profitable your products and services are.

To get your profit margin, divide your estimated average monthly gross profit by your estimated monthly sales. Generating this calculation is beyond the scope of this illustration. What's a good profit margin? The answer varies across industries and your own requirements. Without looking at the costs of a company's overhead, such as marketing and administration, profit margins don't give the whole picture of a company's profitability. So it is worth examining this aspect of profitability as well.

Of course, the preceding figures are fictitious, but they do depict the type of analysis you and your firm need to thoroughly conduct before launching into foreign markets. Given these figures, one might question whether or not your firm should expand to international markets. Realize expanding into international markets can mean positive growth for your company and a hedge against economic downturns in your home marketplace, providing your market research warrants the effort and expense involved in taking that step.

Rules and Regulations to Consider Before Getting Started

U.S. small- to medium-sized companies weighing the merits of expanding globally must take into account a number of issues they must face, should they venture into international trade.

Exporting

Exporting, or selling products made in one's own country for use or resale in other countries, is normally subject to few restrictions for exports of most ordinary trade goods when they are exported under a U.S. Department of Commerce "general export license"; however, some goods are subject to export restrictions especially when considering the following:

- Products can potentially have military use or dual use (commercial [civilian] and military). Confer with The Bureau of Industry and Security^v of the U.S. Department of Commerce to whether or not your product is exportable to eliminate any uncertainty.
- The Bureau of Industry and Security of the U.S. Department of Commerce website "Where are you Exporting"^{vi} lists countries for which there are product export restrictions. You may violate export restrictions by selling a product to a buyer that you know, or should know, intends to re-export the product to a country to which direct exports from the United States are prohibited.
- Export sales to some *purchasers* may be restricted. Consult the "do not sell" lists maintained by the Bureau of Industry and Security of the U.S. Department of Commerce ("Who Will Receive Your Item")^{vii} and by the Office of Foreign Assets Control of the United States Treasury Department.^{viii} Under U.S. law you have an affirmative obligation to "know your customer," including the ultimate buyer or end user if your customer re-exports the product(s) you sold him. You will not be able to plead ignorance, if your customer sells your products to restricted purchasers and you knew or should have known that this was your customer's intention.
- Be clear. It is possible to unconsciously make a prohibited export of technology "embedded" in your product's controls. And you may be "deemed" to export technology merely by giving individuals from a foreign country access, in the United States, to that technology by a variety of means (data-fax, telephone, one-on-one meetings – sufficient to enable those individuals to take that technology back home with them).
- Retain a reputable freight forwarder to ensure your company complies with the laws and regulations that govern exports. Retain an export control/compliance specialist as well to ensure you avoid unconsciously making a prohibited export.

Contracts for the Sale of Goods

The following issues, among others, should be considered in international contracts for the sale or purchase of goods:

Payment Mechanisms for financing exports and imports have evolved over the centuries in response to a problem that can be particularly acute in international trade: the lack of trust that exists when one must put faith in a stranger. That said, “Any sale is a gift until you have been paid!” This is especially true for international transactions where the buyer and seller could be 12,000 miles or more away. Therefore, be sure to undertake proper due diligence when qualifying your customer. While it is prudent to make use of the various credit reporting companies active in your customer’s country, you should also ask for trade references, especially for other domestic firms that you could easily contact.

Currency Exchange Risk arises from the possibility that an unexpected change in exchange rates will alter the home currency value of the payment both upward and downward. To avoid this prospect it is best to propose and sell in your home country currency, preferably one that is heavily traded in financial markets such as the U.S. dollar. If the specifics of your transaction disallow quoting and selling in your domestic currency, it is best to consider hedging. Commercial banks and regulated foreign exchange brokers^{ix} are among the best foreign exchange service providers offering a number of techniques for managing exchange rate exposure.

Terms of Sale. In any sales agreement, it is important that there is a common understanding of the delivery terms since confusion over their meaning can result in a lost sale or financial loss, so YOU, as the exporter, must know the terms before preparing a quotation. A complete list of important International Commercial Terms (“Incoterms”), which are internationally recognized standard terms of trade used in sales contracts, are detailed in *Incoterms 2010*, issued by the International Chamber of Commerce.^x Incoterms are used to make sure the buyer and seller each know which of the two parties is responsible for transporting goods sold, including insurance, taxes and duties, the locations at which the goods should be picked up and transported, and which of the parties is responsible for the goods sold at each step during their delivery.

Dispute Resolution. Every agreement for the sale or purchase of goods, but especially agreements dealing with transnational transactions, should prescribe how disputes will be handled: whether by arbitration or court proceeding; what law will govern; and where the arbitration or court proceeding will take place. Don’t dismiss these provisions as an unacceptable burden may be imposed on you by a foreign language trial in a distant continent under unfamiliar law before a judge from your customer’s home country.

If your contract for the sale or purchase of goods is made by use of a standard form of quotation, purchase order, or acceptance, the terms and conditions of sale or purchase printed on that form should be reviewed by legal counsel for applicability in foreign markets.

Global Growth Plans and Strategies

The decisions you make in entering a foreign market heavily influence the success level you'll achieve in "going global." Although several strategic decisions contribute to how well you do, you can quickly reverse some marketing decisions like pricing, but not so with market entry decisions. It is difficult to undo the impact of market entry decisions, especially marketing mix decisions about price, product, place, and promotion. Be careful in choosing the mode of market entry. Several major external and internal criteria influence the choice of your entry mode. Externally, decision makers should consider several market criteria: market size and growth, risk, government regulations, the competitive environment, and local infrastructure.

Market size and growth are key decision-making factors. Large markets warrant committing major financial and human resources; however, market growth potential is even more significant especially when you attempt to gauge the growth potential of emerging markets. But beware of risk. Risk has four dimensions: political, economic, legal, and financial. Political risk in countries experiencing social unrest and disorder will cause drastic changes in a business environment such as those evolving in the country of Chile. Economic mismanagement drastically changes a country's business environment, negatively impacting your profit and other business goals. Legal risk may deter you from entering into long-term or joint venture agreements, if a trading partner breaks a contract or the government expropriates your operation and property. Lastly, financial risk requires managing international transactions and extra precautions about payments subject to currency exchange rates. If any or all of these risks are significant, be careful and knowledgeable when you make major resource investments in a candidate market.

Government regulations affect your choice of entry mode too. In scores of countries, government regulations heavily constrain the set of available options. Trading blocs like those created by the European Union and the North American Free Trade Agreement can be restrictive. Threats of protectionism, economic nationalism, local manufacturing content rules, tariffs, subsidies, and import quotas may force you to manufacture in the country. That has been the case in the pharmaceutical industry where government regulations subject pharmaceutical companies to local clinical testing, registration procedures, and pricing restrictions to protect in-country competitors.

Be careful in choosing the mode of market entry. Several major external and internal criteria influence the choice of entry mode.

Competition in global markets in the arenas of product type and brand can be particularly intense. It is equally competitive in product substitutes being able to replace others as technology and tastes change. One way you can look at the competition is by examining your equivalents in the industry. Competition drives down rates of return on invested capital. If the rate is “competitive”, it will encourage investment; if not, it will discourage competition. Michael Porter looked at the forces influencing competition in an industry and the elements of industry structure. Study his referenced books for their insight.^{xi}

Look at your target market’s distribution system, transportation network, and communications systems. Differences in infrastructure may require you to delegate marketing functions to national subsidiaries or distribution systems and engage in practices such as distribution and sales strategies you are unfamiliar with. For example, British and Japanese doctors do not respond favorably to a U.S. style high-pressure pharmaceutical sales force.

Key internal criteria to examine are your company’s objectives, its need for control, flexibility, and internal competencies. Your business objectives influence your choice of entry mode as well. If you limit your global aspirations, you’ll restrict your entry choice to licensed manufacturing and sales giving up a percentage to the licensee. If you are proactive, select an entry mode that gives you flexibility and the control you need to achieve your goals. Most small businesses want to control their foreign operations, especially elements of the marketing mix: pricing, advertising, the way the product is distributed, and so forth. If your resources are limited, select a low commitment entry mode like exporting and licensing. In some cases, major resource commitments to a given market might be premature given the level of risk encountered. On the other hand, you may miss major market opportunities, if you are reluctant to commit needed resources.

Internal competencies also influence your choice of entry strategy. If your business lacks certain skills critical for success, fill the gap by forming an in-country strategic alliance while being flexible to local market changes. You know at home and abroad local customers have become more demanding or more price conscious and competitors have become more sophisticated. To cope with these changes, you will need a minimum amount of flexibility, so closely examine the flexibility offered by the different entry modes. Entry mode alternatives vary greatly. Alternatives, like joint ventures or licensing, tend to provide very little flexibility. When major exit barriers exist, wholly owned subsidiaries are hard to divest compared to other alternatives.

OK. You have considered these factors and decided to enter a foreign market. Now you face the decision of deciding on the best “mode of market entry.” You have seven options, each with its own advantages and disadvantages: exporting, turn-key projects, licensing, franchising, establishing joint ventures with a host-country firm or setting up a new wholly owned subsidiary in the host country. You and your managers need to carefully consider which of

these entry modes to use. In evaluating each mode, realize that the appropriate mode for you and your business is the one that provides the most control, the more control the better. But, realize that greater control requires greater resource commitments and entails greater risk, a trade-off.

Exporting

Most companies start their international expansion with exporting, which for many small businesses is the sole alternative for selling goods in foreign markets and, with more experience, switching to another mode of market entry. Companies that plan to export have a choice between three broad options: indirect, cooperative, and direct exporting. Indirect exporting entails outsourcing all of the export steps to a third-party trading company or an export management company. These intermediaries can get your product into an international market with minimal risk, but leave you and your firm with a lot less product control over the brand and how it is marketed.

With cooperative exporting, your firm enters into an agreement with either a local or foreign company in which the partner agrees to use its distribution network to sell your goods using the resources (local cultural and marketing knowledge and overseas distribution network of another company [local or foreign]) for selling its goods in the foreign market. Selecting a partner requires due diligence and entrusting the partner with your product and brand. You will find governments in emerging countries strongly favor your establishing cooperative exporting agreements with in-country partners. Satisfying this government requirement requires your establishing criteria, locating a suitable partner that satisfies your marketing criteria, and negotiating a distributor or representative agreement. In that event, seek the assistance and advice of local and in-country legal counsel.

Direct exporting entails establishing your own internal export organization relying on an in-country representative, a distributor, or your own in-country resources. In selecting an in-country representative, the intermediary does not take product title and you, as the manufacturer, assume both the risk of loss to product and profit. A distributor, on the other hand, takes the title and full responsibility for profit or loss after taking title to product for resale, but only according to how you manage it through a distributor agreement and back-up plan, should it not perform to your satisfaction. As a direct exporter, you have far more control and greater sales and profit potential allowing you to build up a foreign network. You also incur the cost of performing the exporting tasks—choosing the target market, identifying and selecting a representative in the foreign market, and performing scores of logistics functions that consume company resources and capital. Regardless of the alternative you choose, there is no escaping responsibility for product warranty and liability just as would in your home market.

Turn-key Projects

Turn-key projects^{xiii} typically involve government agencies of host country clients contracting for the design, construction, and testing of special large scale process technologies or productions facilities, for example, power plants, telecommunications, and chemical/petrochemical facilities. Efforts such as these are likely beyond the capability of small- to medium-sized businesses and are more likely performed by large engineering or chemical/petrochemical construction companies, given the magnitude of the projects they undertake. You need not rule out this prospect as many small- to medium-sized firms become subcontractors and suppliers^{xiii} on turn-key projects.

Large engineering or chemical/petrochemical construction companies typically handle all the details for the host country client turning the operational project or new plant/facility over to the host country client on project completion. Turn-key projects, for those contractors engaged in this mode of market entry, have the potential of creating potential industrial competitors. Turn-key projects are disadvantageous to firms that want to establish a long-term presence in a host country when their main competitive advantage is the knowledge and expertise they sell to foreign governments and customers.

Licensing

You can also penetrate foreign markets via licensing,^{xiv} a contractual transaction where the firm—the licensor—offers some proprietary assets or intellectual property to a foreign company—the licensee—in exchange for royalty fees. Assets that can be part of a license agreement include trademarks, technology expertise, production processes, and patents. Royalty rates range between one-eighth of 1 and 15% of sales revenue the licensee generates. Licensing appeals to small companies that lack the resources to invest in foreign facilities. Companies use licensing to lower their exposure to political or economic instabilities in foreign markets. In high-tech industries, rapid penetration of global markets allows the licensor to define the leading technology standard and to rapidly amortize research and development expenditures. Your tasks in establishing a license agreement are vetting the prospective licensee, defining the licensed territory [country/countries, region(s)], the term of the agreement [year(s)] with terms that enable you to monitor/collecting royalties from the sale of the product identified in periodic sales reports, and conducting audits of the licensee performed by mutually acceptable sources. You will need legal assistance in preparing the license agreement. The risk in transferring your company's intellectual property under a license agreement is the prospect of creating a competitor within the licensed territory. So be judicious about the extent of intellectual property you are willing to provide a licensee.

Small- to medium-sized businesses, as licensors,^{xv} may reach agreement with another company, the licensee, allowing that company to produce and market one of its products, apply its brand name, or use its patented technology. Thus, licensing can enable a small business to support its research and development costs, increase the [visibility](#) of the firm and its products in the marketplaces, spread its marketing costs across more items, and add volume to its manufacturing operations. To provide a better understanding of licensing arrangements, global retail sales of licensed merchandise grew 2.7%—or over \$4 billion—in 2016 to reach \$167.5 billion, according to The Licensing Letter's *Annual Licensing Business Survey*.^{xvi} The major source of growth were brands from the United States and Canada, which now make up almost 65% of the global market for licensed goods compared to European-based properties that account for 15.5% of total share. Any product appearing on the Internet is dominating the world stage as globalization increases its impact on global consumption and manufacturing. With a 21.4% share, corporate trademarks/brands grew almost reaching \$36 billion in licensed retail sales. The merchandise categories experiencing the biggest increases were in home-related goods, food, and beverages (see Figure 2-5), but one should also consider other product categories such as the following:

- Accessories
- Apparel
- Consumer Electronics
- Footwear
- Furniture and Home Furnishings
- Gifts/Novelties
- Health and Beauty Products
- Infant Products
- Pet Products
- Sporting Goods
- Toys and Games
- Video Games and Software
- Trademarks/Brands

Take the real-life licensing case example of teen specialty retailer Aéropostale's^{xvii} aggressive effort to turn its sinking sales around through retail and product licensing agreements with two of the largest and strongest retailers in Indonesia with PT Mitra Adiperkasa TBK (MAP) and in India with Arvind Lifestyle Brands Limited after the retailer successfully launched its brand in the Philippines and Singapore. The mall-based specialty retailer of

casual apparel is now positioned to capitalize on strong income growth prospects while its partners are largely assuming the cost of operations. Above and beyond those countries, its CEO anticipated ending 2015 with over 300 locations across 17 countries.

Retail Sales of Licensed Merchandise, by Geographic Source of Property, Worldwide, 2015–2016 (Figures in Millions)					
GEOGRAPHIC SOURCE OF PROPERTY	RETAIL SALES, 2016	RETAIL SALES, 2015	ONE-YEAR CHANGE, 2015–2016	FIVE-YEAR CHANGE, 2011–2016	SHARE OF MARKET, 2016
U.S. and Canada	\$108,286	\$104,773	3.4%	11.6%	64.6%
Europe (Western and CEE)	\$26,018	\$25,481	2.1%	6.5%	15.5%
Asia	\$18,336	\$18,057	1.6%	5.6%	10.9%
Other	\$14,855	\$14,811	0.3%	24.0%	8.9%
TOTAL	\$167,496	\$163,121	2.7%	11.1%	100.0%

Note: Figures may not add up exactly due to rounding.
Source: The Licensing Letter

Figure 2-5. Retail Sales of Licensed Merchandise

Given the potential profitability and business expansion that the entry mode of licensing can offer, your small business may be weighing the choice of approach between manufacturing in-house or licensed production. Among the factors you should consider are the product, your firm’s core capabilities versus those of a prospective licensee. Assessing your company’s unique skills and abilities may lead to licensing one or more specific manufacturing processes over manufacturing and marketing the end product. If you conclude that manufacturing in-house is the better, more profitable approach, it is best to proceed with that alternative; otherwise a smarter approach is to find a qualified licensing partner. This consideration equally applies to licensing non-core technologies and may even lead to marketplace opportunities and advantages you never imagined.

Franchising

Scores of service industry companies, like McDonald's®, Kentucky Fried Chicken (KFC®), BrightStar (senior) Care®, Mr. Handyman®, and Build-A-Bear Workshop®, use franchising^{xviii} to capture income opportunities in the global marketplace. This key market entry option exports the American dream.^{xix} By creating a recipe of know-how and methods, franchising allows your franchisee to take control of its financial futures and success. As a franchisor, you grant the franchisee the right to use your business concept and trade name in exchange for royalties. The franchise “package” might include your marketing plan, operating manuals, standards, training, and quality monitoring, much like what a franchise package would include in your home market. You gain the benefit of capitalizing on a winning business formula in expanding overseas with a minimum investment, limiting political risk, and capitalizing on the local franchisees’ knowledge of the local marketplace, customers, and laws. Further, your franchisee’s profits are directly tied to its efforts; franchisees are highly motivated. A major concern is the lack of control over the franchisee’s operations so your franchise agreement must include rights to audit its operations and income. Cultural hurdles you are unaware of can also create problems to accomplishing the audit and collection of income. You don’t want to “kill the goose that lays the golden eggs” so to speak.

Real-life examples for franchising include Dunkin’ Donuts® and Baskin-Robbins®. Since 1950, Dunkin’ Donuts has grown from a single coffee shop in the Boston area to one of the world’s largest coffee and baked goods chains. Over 7,700 locations in nearly 50 countries later, it seeks even more franchise candidates to grow all around the globe.^{xx} Since 1945 Baskin-Robbins has developed into the world’s largest ice cream specialty shops with nearly 7,700 locations in almost 50 countries.^{xxi} Of course, international franchising opportunities are not limited to food and exist for a multitude of opportunities in a variety of industries, for example, multi-format signage (Fast Signs®^{xxii}), fitness training (F-45 Training®^{xxiii}), and executive search (CNA International®^{xxiv}).^{xxv} By growing a strong presence in a market where there is no, or limited competition, a franchise concept establishes market dominance.^{xxvi} *Global Franchise* magazine^{xxvii} identifies franchising market opportunities in India, Myanmar, Cambodia, Malaysia, Hong Kong, mainland China, Indonesia, Japan, Singapore, and Dubai and North Africa.^{xxviii} Without a doubt, one should enter the franchising market with eyes open realizing that international franchising can be challenging, but nonetheless rewarding. This is a call to investigate and consider the possibilities and parameters a franchise should take into consideration when taking a U.S. franchise brand to other countries. One method would be to examine the EGS, Inc. Franchise Country Ranking tool (Figure 2-6). This tool is updated quarterly. Visit <http://edwardsglobal.com> to view the latest version.

Countries/Regions	Projected 2017 GDP Growth	Market Size (Customers)	Legal Concerns For Intl. Brands	Ease of Foreign Brand Entry	Investment Risk Level	Overall Country Ranking
Spain	1	1	2	1	1	1.2
Ireland	1	4	1	1	1	1.6
Philippines	1	2	2	1	2	1.6
United Arab Emirates	1	2	3	1	1	1.6
Viet Nam	1	2	2	1	2	1.6
China	1	1	2	2	3	1.8
India	1	1	2	3	2	1.8
Indonesia	1	1	3	2	2	1.8
USA	2	1	2	2	1	1.6
Argentina	2	2	2	2	2	2.0
Poland	2	2	3	2	1	2.0
Singapore	2	4	1	2	1	2.0
Thailand	2	2	2	2	2	2.0
South Korea	2	2	3	3	2	2.4
France	3	1	2	2	1	1.8
Mexico	3	1	2	1	2	1.8
United Kingdom	3	1	2	2	1	1.8
Canada	3	2	2	2	1	2.0
Italy	3	2	2	2	1	2.0
Japan	3	1	2	3	1	2.0
Australia	3	2	2	3	1	2.0
Peru	3	3	2	1	2	2.2
Russia	3	3	3	3	4	3.2
Brazil	4	1	2	3	3	2.6
South Africa	4	2	2	2	3	2.6
Franchise Country Ranking: 1 is best, 2.5 is fair, 4 is worst - Sorted on Expected GDP growth and Overall Country Ranking For Franchise Development in 2017						
Sources: 'Economist', Economist Intelligence Unit, World Bank, Fraser Institute, Euromonitor, U.S. Commercial Service, GlobalEdge®, Eules Hermes Risk Monitor, McKinsey						
Boston Consulting Group, OPG, the 'Financial Times', International Monetary Fund and EGS GlobalTeam™ on the ground in 43 Countries						
Projected 2017 GDP growth	A projected 2017 GDP growth rate of 4%+ = 1.25%-3.9% = 2, 1.0-2.4% = 3 and <1% = 4. Average of 3 sources					
Market Size (Customers)	This is a measure of the middle, upper middle and upper class consumers in a country					
Legal Concerns for Intl Brands	'1' means low IP and legal risk. '4' means little chance of controlling the brand if there are problems					
Ease of International Brand Entry	How open a country is to international brands					
Investment Risk Level	Ability to get cash out, make an acceptable ROI, treatment of foreign companies vs. locals					
Overall Country Ranking	Average of all rankings above					

Figure 2-6. EGS, Inc. Franchise Country Ranking (Courtesy of Edwards Global Services, Inc.)

Contract Manufacturing

With contract manufacturing, you arrange for the manufacture of parts or even the entire product in a foreign market. The cost of marketing and distribution is still your responsibility, should you wish to generate sales there. You can obtain significant competitive advantage for labor-intensive production processes by sourcing the product in a low-wage country of your choice. You can achieve tax savings, lower costs on energy, raw materials, and overhead. Subcontracting likely reduces exposure to political and economic risks and is not very demanding on your company resources, thus allowing access to markets that would otherwise be closed. However, contract manufacturing does raise the “nurture-a-future competitor” concern. Because of this risk, you may prefer to make high-value end items or products that involve proprietary design features and technology in-house. Other challenges that you will need to look out for are very low labor productivity and a history of bad labor relations that some low-labor cost countries are infamous for. Monitoring quality and production levels is a must, especially during start-up. When you screen foreign subcontractors, your ideal candidate should be flexible and geared toward just-in-time delivery^{xxx} (reducing your exposure to any quality issues), be able to meet quality standards and integrate with your business, have a solid financial footing, and have a contingency plan to handle sudden changes in demand.

Joint Venture

For many companies that want to expand their global operations, joint ventures^{xxx} prove to be the most viable way to enter foreign markets, especially in emerging markets. With a joint venture, your company agrees to share equity and other resources with other partners to establish a new entity in the target country. The partners typically are local companies, but they can also be local government authorities, other foreign companies, or a mixture of local and foreign players. The key issues to consider are ownership, control, the length of the agreement, pricing, technology transfer, local firm capabilities and resources, and government intentions. Depending on the equity stake, three forms of partnerships can be distinguished: the majority (more than 50% ownership), 50-50, and minority (50% less than ownership) ventures. Huge infrastructure or high-tech projects that demand a large amount of expertise and money often involve foreign and local partners. A major advantage of joint ventures is the return potential. Joint ventures also entail much more control over the operations than most of the previous entry modes discussed so far. There are a number of ways for the company to gain more leverage starting with a majority equity stake; however, government restrictions often rule this out. Companies could deploy expatriates in key line positions thereby controlling financial, marketing, and other critical operations of the venture. Strongly consider each of the following as joint ventures have been known to

fail for these reasons. The joint venture agreement must also be drafted to cover every contingency, including dissolution of the joint venture entity the partners create, including the following:

- Reasons to form a joint venture
- Compatibility of any prospective partner
- Joint venture versus strategic alliance
- Identifying the joint venture's purpose
- Selecting the form of entity
- Implications for existing operators
- Capitalizing the joint venture
- Management issues
- Economic and tax issues
- Restrictive covenants
- Dispute resolution

Wholly Owned Subsidiary

Setting up a wholly owned operation in a new international market offers less of the “quick” advantages of other market entry modes as it involves a time-consuming effort to establish a presence in foreign markets where your business may have little knowledge of the local market. Companies often prefer to enter new markets with 100% ownership and control. Ownership strategies in a foreign market can essentially take two routes: acquisitions, where the company buys up existing companies; or green-field operations that are started from the ground up. As with other entry modes, full ownership entry entails certain benefits to your company but they also carry substantial risks. Wholly owned subsidiaries give your company full control of its operations. It is often the ideal solution for companies that do not want to be saddled with all the risk and anxieties associated with partnerships like those that joint venturing involves. Full ownership means that all the profits go to your company. Presence in-country also entails host country tax liability and the prospect of taxation on re-patriated profits sent home. Fully owned enterprises enable all the investors to manage and control their own processes and tasks in terms of marketing, production, and sourcing decisions. Setting up fully owned subsidiaries also sends a strong commitment signal to the local market. In some markets, China, for example, wholly owned subsidiaries can be erected much faster than joint ventures with local companies that may consume years of negotiations before their final take-off. The latter point is especially important when there are potential advantages of being an early entrant in the target market.

These entry mode alternatives are all viable and there are many factors that need to be taken into consideration such as these:

- Your marketing objectives – volumes you wish to sell, time frame, and coverage of key market segments.
- Resources required to support the level of international business activity you are planning.
- Suitability of a market entry strategy – some countries only allow a restricted level of imports but welcome manufacturing facilities that provide jobs and limit the outflow of foreign exchange. Also, there may not be any qualified distributors or agents to sell and service your product.
- Your appetite for risk.

Your task is to consider the options and their ramifications carefully, both the advantages and disadvantages and then consult with the professionals—attorneys, insurance, logistics professionals, tax, finance, and marketing specialists to ensure your global markets entry approach works to your advantage. It is important to make an informed assessment before launching into a foreign market.

Global Growth and Organization Design

Having determined international expansion is worthwhile and achievable, international expansion will eventually impact business operations. Should there be no international sales, you will not need to change your organization's design structure. However, should you modestly engage in direct exporting and the volume of exports disrupts normal operations significantly, you may be driven to establish an "Export Department"—even an international division—should the volume of international business require it, to oversee international operations, marketing products, processing orders, working with foreign distributors, and arranging customer financing.

Identifying Your Target Market and Finding Customers

If we could export more finished products instead of raw materials, we could become a middle-income country.ⁱ

—Yoweri Museveni, former president of Uganda, November 25, 2007

One of the most important aspects of growing your global markets is performing the same level of due diligence you exercise on domestic market research and narrowing your focus on the specific customer group in your foreign target market. The information that this process provides is invaluable, especially as you use it to generate an international marketing plan that ensures the profitability of your global expansion efforts.

You are probably aware of the type of person you're trying to reach. Man, woman, young, old, employed, retired—the variables that can define your target audience are innumerable. You may think that a generic idea of your foreign target market is more than enough to build your business around, but in reality, it's important to get as narrow a focus as possible when defining your target. This includes not only information about your potential customers, but also how your potential competitors are working to reach those customers as well.

Look at Global Marketing

The greatest meliorator of the world is selfish, huckstering Trade.ⁱ

—Ralph Waldo Emerson, American essayist, lecturer, and poet

To know the many benefits of global marketing, one must first determine exactly what marketing is. Marketing, according to the American Marketing Association, “is the activity, set of institutions, and processes for creating, communicating, delivering, and exchanging offerings that have value for customers, clients, partners, and society at large”ⁱⁱ or “the whole commercial process that creates (through promotion) the interest that the potential customer demonstrates prior to a sale.”ⁱⁱⁱ Actually, marketing involves a company’s entire positioning toward satisfying customer needs in a competitive environment.

It was not that long ago that a firm entering the global marketplace needed months to market and ship products to customers in another country, requiring the support of huge trading companies. Marketers, having mastered domestic markets venturing into global markets, found the task of global marketing difficult. They faced foreign competitors at home and abroad extending their international presence, merging the world market. Though multinational corporations may have offices and subsidiaries in markets they sell to, today, businesses, regardless of size and with the proliferation of the Internet, can reach consumers anywhere in the world. As a result, fast-growing firms, like yours, are able to market their wares and services by the full marketing process of the 4 Ps of the marketing mix (product, price, promotion, and place) for their products and services in an international market.

Expanding the scope of your firm's marketing program to the global marketplace has several advantages that include the following:

- Improved effectiveness of the firm's product or service through exposure to new production and service techniques.
- Having competed in the global market place, the firm will have achieved an enhanced competitive advantage.
- Increased customer awareness of a firm's brand.
- Reduced production cost and increased savings derived from economies of scale.
- New revenue potential.
- The ability to serve a greater number of markets.
- Greater access to talent.
- Learning a new culture.
- Exposure to foreign investment opportunities.
- Diversified company markets.

Global marketing's ability to effect these advantages will be great for your business, but those outcomes do not come without challenges for you and your firm. First and foremost, there must be a universal demand for your products and services. Since global marketing entails a variety of different products and opportunities, it is impossible to profile a universal customer. To be a global company, you and your marketers must develop multiple customer profiles, one for each of the different markets you will be trading in. Although U.S. companies may have major global customers in Canada, Mexico, and the European Union, your prospects for international trade by no means end there. It is a question of expanding to other markets and whether or not your firm has the means to become familiar with them.

Depending on the product and services you offer, you may initially rely on local representatives and distribution networks, but as your understanding and familiarity with each target market grows, you may set up your own network starting with major metropolitan centers, and then moving out to nearby regions. When marketing products globally, recognize that the marketing mix (product, price, place, and promotion) that works at home may not meet the same success abroad. Competitive factors on the ground may call for product adaptation—possibly a change of name and packaging, a different pricing strategy that's competitive and accounts for all your firm's costs to yield a reasonable profit, and, importantly, different promotion and distribution strategies that your new customers will embrace. Global marketing will take research that includes personal visits that include spending some time with them. Isn't that what global marketing is all about?

Understanding Types of Markets

The term “mass market” refers to a large (even global), undifferentiated group of businesses and consumers with widely diverse backgrounds. Products and services needed by almost every business and consumer are suited for the mass market. Marketers can advertise through a variety of media and sell items such as food, electric and gas utilities, soap, paper towels, and gasoline to mass markets, making these items mass market goods. In the case of food products, grocery stores, restaurants, and farming cooperatives satisfy the mass market’s need for food. In essence, the wherewithal of production capacity supersedes product.^{iv} These business entities are able to effectively operate and market on a massive scale. They effectively target their customer having generated a combination of the marketing mix that generates the sale of goods and services to very specific target markets. Ineffective marketing focuses on the product in defining markets, leading to missed sales opportunities and questionable customer satisfaction. Both types of marketing, effective and ineffective, lead to the conclusion that a **market**, a group of potential customers with similar needs that are willing to purchase goods and services to satisfy those needs, lies outside of the firm.

In segmenting the mass market, think of product markets versus mass markets. **Product markets** are “the set of products/services that can be substituted for each other within specific use situations where similar benefits are sought and the customers for whom such usages are relevant.”^v For example, some users of computer programs, applications, and IT hardware only use computing products with specific computing capabilities. Only a limited number of computer companies can compete for this market because only their specific computer products/services satisfy that consumer group’s computing needs.

Product specificity, like a computer company’s exact computer programs and/or hardware model(s), enables a firm, like yours, to focus on a specific customer demographic within the larger product market and to direct marketing efforts at that niche enabling that limited number of providers to dominate most, if not all of that market segment.

In targeting prospect countries as markets for your products and services, work to define a broad product definition than your firm’s current product market, but not one so broad that your firm could not handle the demand, if you were to generate it. In identifying your product’s target market segment, focus your product marketing effort on product type, the customer need it meets, the location of specific customer segments, and the countries in which the customers having these needs are located. Once you have defined your product markets, you are ready to continue the segmentation process to identify potential target markets.

Identifying Your Target Market

Global marketers have a number of secrets to targeting segments in international markets that are much the same as those they tap in effectively targeting domestic markets segments. Their ultimate goals are to isolate those market segments most responsive to their firm's marketing plan (the four Ps) and do a better job of satisfying target market product and service needs. In particular, they target market segments that are easily defined and measured, large enough to justify the cost of marketing, reachable via marketing media, actionable for marketing mix programs, and competitive with high growth potential.

The secret is to approach the segmentation process from different angles. One angle is selecting prospect countries based on a single dimension (e.g., per capita Gross National Product) or a set of multiple variables determined from secondary data research sources such as the [World Bank](#)^{vi}, UNESCO,^{vii} and The Organization for Economic Co-operation and Development (OECD).^{viii} Should global marketers face many country traits (factors/variables) from which to choose, they “collapse” several traits to segment a market using a data reduction technique like factor analysis, a multivariate statistical approach that condenses information contained in a number of original variables (traits) into a smaller set of traits with a minimum loss of information.^{ix}

Still, another “secret” angle global marketers use is to determine cut-off criteria that are driven by product type/features/use, company characteristics for a predetermined product, and company thresholds they have established. They next develop micro-segments in each country or they jointly group individual segments in all of their prospect countries to directly produce cross border segments choosing from (1) universal segments—cross-border market segments that go beyond national boundaries, (2) diverse segments—local segments that differ from country to country, and (3) a mix of the two market segment types.

Actually, the biggest secret is deciding which variable to use in the segmenting task. Literally, hundreds of country traits could be used as variable inputs for factor analysis. Global marketers determine the response variables of greatest interest and then seek to find the right “ingredient list” of different country variables. It is not unusual that several segmentation criteria is either missing, inaccurate, or outdated for some of the countries to be grouped so they exercise some caution in compiling the list of variables.^x

There are different country variables global marketers commonly use to segment markets in two categories: Business to Consumer Segmentation Criteria (demographics, socioeconomic variables, political conditions, culture, purchase behavior, lifestyle, psychographic and behavior traits) and Business to Business Segmentation Criteria (demographics, psychographic, behavior, and management environment factors).^{xi}

Aside from these criteria, global marketers have many other country dimensions on which to identify their target markets. Their choice of criteria largely depends on the nature of the product they are marketing and the specific objectives of their marketing plan.

Global Marketing: Leveraging Product Development Strategy That Lands International Customers

Developing and adopting an innovation strategy driven by the business leadership team and its strategic visions of the business is an essential tool for product development efforts^{xii} that land international customers. This strategy guides the business's product development efforts and steers resource allocation and project selection. A product development strategy must include clearly defined objectives, strategic areas of focus, and requires management's long-term commitment.

The deficiency of not having a product development strategy will likely hamper your firm's ability to land domestic and international customers. This strategy begins with the goals for the business's product development effort and a clear understanding of how these goals tie into your broader corporate goals and objectives. The most popular objective is segregating a percentage of the business's annual sales generated from new products—those that have been on the market three years or less that are visibly different to the customer from your firm's previous offerings.

Your focus for research & development efforts—the markets, industry sectors, applications, product types, or technologies on which your business will focus its new product efforts—is at the heart of a new product strategy. Specific strategic arenas that offer new and profitable opportunities for product development are fundamental to determining the direction of your product development effort. Use a product market matrix to define new, adjacent areas that offer new product opportunities. Next, you will evaluate these arenas, selecting the battleground (size and growth of the markets) and business strength (your firm's core competencies can be leveraged) as the two key dimensions for this evaluation. The result is the creation of a strategic map in which the upper-left quadrant targets the most promising product prospects.

The issue of how to attack each strategic arena defines the product development approach you will pursue. An understanding of the business's core competencies and knowledge of industry success drivers will drive the selection of the appropriate attack strategy.

Any good product development strategy deals with how much to spend on product development and it should indicate the strategic priorities accorded

each an arena of strategic focus. Begin by gathering data that reveals the current portfolio situation, including the current split in projects, resources, and expected sales by project type. Management can then debate on the optimal portfolio and determine strategic budgeting decisions.

A strategic product road map effectively plots a series of major initiatives in the attack plan enabling management to view the path it wants to pursue or achieve as its desired objective.^{xiii} Using strategic budgeting and road maps takes considerable commitment and time to execute; however, the reward is worth the sales results you will achieve in landing customers in the global markets of your strategic choice.

Pricing Your Products and Services

Pricing, the function of determining what a company will receive in exchange for its products and services, is the most critical element of the marketing mix for firms considering expanding into global markets. Above all other elements of the marketing mix (Product, Price, Placement, and Promotion), pricing is the one element that creates revenue for the firm. Pricing has three goals: (1) achieving the firm's financial objectives, (2) mirroring the realities of the marketplace and customer buying trends, and (3) supporting product and service positioning consistent with the remaining "Ps" of the marketing mix.

As in domestic marketing, pricing in global marketing is impacted by distribution channels, promotional tactics, and the quality of the product. For example, if you distribute product through an exclusive distribution channel that includes distributors, marketing representatives, and warehousing, the cost of these factors will drive the need to increase prices higher. Higher pricing will also be needed to address the cost of innovative technologies and price increases of raw material used in manufacturing or extensive, customized advertising and promotional campaigns you execute in the targeted foreign market(s). Pricing should never be the same as that in another market. Firms entering the global marketplace must be prepared to not only address customer price expectations, but also a multitude of external factors such as the cost of production and delivery, tariff rules, competitor prices of competing products, currency exchange rates, value added taxes, distributor price mark-ups, and discounts on manufacturer list pricing.^{xiv}

A company's global pricing policy may make or break its overseas expansion efforts. Given the foregoing list of factors, you will be challenged to coordinate pricing policy across different countries so it's vitally important to get pricing policy right. A mixture of factors governs your global pricing decisions. Some of the drivers are related to the so-called 4 Cs: Company (costs, company goals), Customers (price sensitivity, segments), Competition (nature, intensity), and Channels. In addition to these elements, in many countries, pricing decisions are often influenced by host government pricing policies that affect competition in that market.

When developing a pricing strategy for your global markets, determine the goals you want to accomplish with your pricing. You may want to maximize current profits or project a premium image via price for your product. The most important pricing objectives of most companies doing business in the United States (including foreign-based firms) are (1) to achieve a satisfactory return on investment, (2) to maintain market share, and (3) to meet a specified profit goal. Initially, you may set a relatively low-market penetration price (compared to other countries). Once you are well established, you may shift your objectives and align them with the goals you have elsewhere.

Company costs set the floor in your pricing decisions. So, you want to set a price that will at least cover all relevant costs for manufacturing, marketing, and distributing your products. The most popular practice is cost-plus pricing, an approach that adds international costs and a mark-up to the domestic manufacturing cost. An alternative approach is dynamic incremental pricing, a strategy that arrives at a price after removing domestic fixed costs. Only variable costs generated by the exporting efforts and a portion of the overhead load should be recuperated. Examples of exporting-related incremental costs include manufacturing costs, shipping expense, insurance, and overseas promotional costs. Although the second approach is more acceptable from an economic perspective, be sure to avoid being accused of “dumping” product in your new market at prices below those you charge in your home market.

Consumer demand and buying power are key considerations in any pricing strategy. Consumers’ perceived value attached to your product will set a ceiling for the price. Consumer demand is a function of buying power, tastes, habits, and substitutes—all the factors that vary from country to country. One option is to go for the mass market by adjusting the product. You might even consider downsizing the product (small volume, size, fewer units per package) or lowering the product quality or charging prices in the same range as your domestic price and targeting the upper end of the foreign market.

There is no doubt about competition being a key factor in global pricing. Differences in the competitive situation across countries will usually lead to cross-border price differentials. Not surprisingly product price tends to be very low in markets where competing brands are priced low and vice versa in high-price markets. The competitive situation may vary for a number of reasons. First, the number of competitors typically varies from country to country. In some countries, you face very few competitors or even enjoy a monopoly position, whereas, in other countries, you have to combat numerous competing brands. Second, the nature of competition will differ globally versus local players, private firms versus state-owned companies. The third is the distribution channel. The pressure exercised by channels can take many forms. Variations in trade margins and the length of the channels will

influence the ex-factory (Incoterms) price you charge. The power of large-scale retailers in Europe is visibly illustrated by the hundreds of hurdles that several manufacturers faced in implementing every-day-low-pricing (EDLP). With EDLP, the manufacturer offers consistently lower prices to the retailer (and the ultimate shopper) instead of promotional price discounts and trade promotions.

Last, but not least, government policies can have a direct or indirect impact on pricing policies. Factors that have a direct impact include sales tax rates (e.g., value-added taxes), tariffs, and price controls. An increase in the sales tax rate will usually lower demand. However, in some cases taxes may selectively affect imports. Another concern is price controls that either affect the whole economy (for instance, in high-inflation countries) or selective industries. Aside from direct intervention, government policies can have an indirect impact on pricing decisions. For instance, huge government deficits spur interest rates, currency volatility, and inflation. How these factors interrelate will affect product cost; and ultimately, you will have to decide what costs should be passed on to your customers.

Furthermore, global marketers must carefully position their product relative to the local competition to ensure their brand's ultimate profitability and whether their product price signals high value and exclusivity or something in between according to cultural norms and customs of the target market. As you can see, there is much to consider in arriving at pricing policy. Learn as much as possible about your target market(s) and be smart about pricing. It affects your bottom line success.

Promoting Your Products and Services

Sales promotion refers to the collection of short-term incentive tools that lead to quicker and/or larger sales of a particular product by consumers or the trade,^{xv} with the objective of stimulating consumer trial and cementing a long-term relationship with a retailer in the target market. How your firm chooses to promote its products and services can have a direct and substantial impact on its sales. As a result, marketing staff may use a mix of tools that include advertising, public relations, personal selling, direct marketing, and positioning to achieve its marketing objectives.

But first, start with cross-cultural literacy to ensure you clearly understand the differences or barriers between your own culture and the culture of your target market and how differently business is conducted there. Since many have proposed a definition of culture, it might be best to examine how Hofstede^{xvi} views culture. Culture, according to Hofstede, is a system of values (abstract ideas and beliefs about what is good, right, and desirable) and norms (the social rules and guidelines) that people share and that when taken together suggest appropriate behavior in particular situations. Considering

this definition should prompt you to think about your own country's cultural values, norms, and demographics, geographical regions stimulating you to compare your national differences to those of your target foreign markets so you can effectively localize your product to your customer's specific needs and your brand's message.

Advertising

To overcome culture's impact in advertising language and how advertisements relate to culturally sensitive issues like religion and politics, it pays to involve local advertising agencies in the development of your promotional campaign to ensure your audience responds positively. Of course, retaining local advertising agencies presumes there are no money issues financing a promotional campaign. To ensure financing is adequately addressed, make budget decisions on a regional level where each regional manager's budget proposal is approved by the home office. International marketers must also be concerned about media decisions. Acquaint yourself with the best media channels in the target market, their availability, and cost. It is also crucial to thoroughly understand foreign regulations governing the limits of how, when, and why you advertise in a specific country before you develop a campaign to avoid legal implications and waste valuable time and money.

Public Relations

Retain and work with an international public relations (PR) firm that uses translators who can test the meaning of short, meaningful phrases to be used in marketing campaigns you plan to run in the target market. Doing so will ensure the phrases used are the most effective means of drawing attention to one or more aspects of your product. You will also want to avoid using colloquial language, slang, or jargon that may prove to be embarrassing or convey an unintended meaning that could cost you dearly. Your public relations firm will also need to work with international news outlets to control the news cycle. It may even be worthwhile to travel with a translator to make every business meeting you attend go smoothly. Working with a PR firm will thus enable you to create effective marketing content that takes the local culture and language subtleties and nuances into account for your foreign marketing campaign's new channels and methods.

Personal Selling

Personal selling is a great promotional approach to take in marketplaces where staffing salaries tend to be less costly; however, as a new arrival to the market, your firm will have to invest in recruiting, motivating, organizing,

and training a local sales force that knows the product, language and culture, location of the target market, and its purchase behavior. Should you elect to staff with expatriates, you will have to train them in what to expect in selling to a different culture. Many opportunities have been lost and allies been alienated for having assumed that American marketers spontaneously know more and better than the local sales force.

Direct Marketing

Direct marketing is an attractive instrument for foreign market entry and international customer communication that that involves making direct contact with the intended customer through phone calls, e-mails, offers through newspapers and magazines, etc. Each country has its own set of direct marketing agencies, mailing list providers and brokers, letter shops, and fulfillment providers.^{xvii} These operations should understand your campaign needs and demands enabling them to not only identify mailing lists but also advise you on postal regulations, currency differences, and the best time to circulate mailers.

Positioning

Positioning is what the customer believes about your product's value, features, and benefits; it is a comparison of your product to the other available alternatives offered by the competition. These beliefs tend to be based on customer experiences and evidence, rather than awareness created by advertising or promotion. Position your product by the following:

1. Its attribute(s);
2. Use or application;
3. User;
4. Product or service class;
5. Competitor; and
6. Price or quality.

Managing your product positioning requires your knowing your customer and understanding the competition acquired through market research, not what you think is true.^{xviii} Product promotion in international marketing, as you can see is multifaceted. Be careful and be successful in reaching your global customer.

Finding Your Global Customers

In 2016 worldwide retail commerce was projected to reach \$22.049 trillion. Of that total, worldwide retail e-commerce for products and services was projected to reach \$1.915 trillion, accounting for 8.7% of total retail spending worldwide. Today, with more than 3 billion people connected to the Internet,^{xix} and more to come in the future, worldwide retail e-commerce is projected in 2020 to reach \$4.058 trillion with the Asia-Pacific region remaining the largest of retail e-commerce.^{xx} This global interconnectedness offers a tremendous potential customer base and has made marketing products and services abroad a low-cost alternative to traditional international marketing. Firms of all sizes worldwide are migrating their marketing programs online to seek new business in regions and countries they had previously thought were beyond their reach. Regardless of the form, a firm's web presence takes, small- and medium-sized companies, like yours, can broaden their market presence internationally by adopting e-commerce or electronic business practices that are user friendly for non-English-speaking users. If you have not built a website on the Internet, mobile optimized to engage effectively with customers, it is high time you did. A company's web presence (a mobile phone application [mobile app], a transactional website^{xxi} transactional website, an information delivery website^{xxii} information delivery website, or an e-marketplace^{xxiii} website), becomes a valuable tool for building customer awareness and sales. As a result, with your company's web presence, you need not incur the significant marketing expenses you would otherwise incur by investing in "brick and mortar" marketing processes used by businesses serving customers face-to-face at a traditional storefront.

Companies, like yours, can broaden their market presence internationally by adopting e-commerce or electronic business practices that are user friendly.

Of course, the type of website you and your business need to grow your global markets depends on the nature of your business and the goals you have for going "online" with a website. Once you choose the general type of site you want, you need to decide what features you will offer. The choices are almost unlimited. But, before deciding on the type of website you need, examine competitor sites at home and abroad and position yours accordingly. Next, you need to register a domain name, your business's address on the Internet, and the uniform resource locator (URL). It is important that your domain name is short, descriptive, and memorable—like "37signals," "Twitter," "YouTube," and "Flickr;" a domain name—like your company's name - that targets your audience's preferences. Consider registering several domain names to ensure your customers do not mistakenly go to a competitor's website.

The website you build must be stored on a computer that has a reliable, secure connection to the Internet. Hosting a website means providing the technical resources needed to make your website available to your customers. You can either host your own website or hire a web hosting company to host your website. There are advantages and disadvantages to both approaches and many web hosting companies that will host your website, store, and secure your data.

Someone must design the look of your website, create the images, and write the programming code. Determine whether or not you should do it yourself or hire a web designer and developer. The decision boils down to a few factors: tools and templates, necessary in-house to website design skills, and how much you can budget for its development. Many customers will use an Internet search engine to find you, so making your website “search engine friendly” is extremely important. To do this, first identify keywords that describe your business and use as many keywords as possible on the main page of your website.

Once you have built your website, test every aspect ensuring it is user friendly for non-English-speaking users before opening it up for business. Make sure you accommodate the native tongue of your target market using a translation service, if necessary, to ensure it is “translation perfect.” This way you ensure there is no misunderstanding about your offerings in the mind of the customer. Make sure all the text, spelling, images, colors, and page layouts are correct. If you have an e-commerce component, get out your credit card and order something so payments and transfers are handled securely and quickly, especially when transactions are of high monetary value. Ensure the confidentiality of your customer data is secure. If there are any problems, discover them before your customers do by visiting the Payment Card Industry (PCI) Security Standards Council’s payment security educational resources^{xxiv} for access to all the information about transaction security you need. A thorough assessment of your payment system from a company like Security Metrics^{xxv} should tie up any loose ends. This company is somewhat similar to the analysis that the PCI council will perform, but is a bit more exhaustive in its approach. Once you are satisfied that everything works properly, put your website online! Congratulate yourself, but do not stop there! Track statistics critical to improving your business, including how many unique visitors came to your website, what they looked at, how many just browsed, how many bought something, how many are repeat customers, and how effective your advertising and marketing campaigns are. To get this data, install web analysis software, for example, StatCounter or the more sophisticated Google Analytics, so long as it offers detailed analysis reports as a form of customer feedback. See the Google Analytics Help Center tutorial “report and analyze page^{xxvi}” for more information in this regard.

At this point, you have put a lot of work into building your website. It is tempting to sit back and watch it run, but you cannot afford to do that. Running a successful site also means updating it regularly. You do not have to completely redo your site every month, but freshen it up periodically. A website that looks the same and has the same product information month after month becomes stagnant. Your customers may lose interest and drift away. Frequently change a few colors, replace your key graphics, change your greeting, or add the latest news about your company. Keep on top of your sales data, your web statistics, customer feedback, and what your competitors are doing. Use this information to substantively improve the structure of your website as well as the products and services you offer.

Your firm's e-business presence on the Internet must include target market development to either advertise through high-traffic Internet search engines keyed to particular search terms or focus on a specific demographic. For a large marketing campaign, possibly use an advertising network like Apple's Quattro and Google's AdMob that deliver advertising to smartphones such as the iPhone. Such networks bring an inventory of unsold advertising to specific audiences then execute the targeting, optimization to a network of websites, and reporting on the campaign or a media exchange like Yahoo's Right Media Exchange. These market development options are available domestically and internationally in English or the language of your target market.

An alternate growth strategy for making global business-to-consumer (B2C), even business-to-business (B2B) sales, aside from developing a web presence for your firm, is selling through online marketplaces, in particular, Alibaba,^{xxvii} Amazon,^{xxviii} and eBay.^{xxix} By 2020, global online B2B retail sales will be more than double that of consumer retail, according to growth experts Frost & Sullivan, accounting for \$6.7 trillion of revenue.^{xxx} E-marketplaces are creating a new era for the B2B market. The same trends propelling consumer retail online are impacting the purchasing practices of business buyers. By removing the complexity of purchasing, e-marketplaces in B2B space are filling a business need transferring the experience of consumer shopping to the context of B2B. As a consequence, they are providing SMEs, like yours, an opportunity to sell across new geographical borders. You and other SMEs should consider using e-marketplaces to run important parts of your business where it makes sense.

Another viable option is direct e-mail marketing, the online version of direct mail. Let's say you identify a new foreign market that appears, based on your research, to be very receptive to your product. Since the cost of advertising to this market may be prohibitively expensive and your advertising couldn't appear for six months anyway, using direct e-mail promotes and enhances Internet presence to quickly test this market at a reasonable cost and convincing certitude. Note there are regulations affecting direct e-mail communications. In the United States, electronic mail messages are subject to the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003^{xxxi}

the (CANSPAM) that affects “any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service.” Globally, e-mail regulations are a bit more complicated than those of the United States. The specifics of general anti-spam legislation can vary from country to country so be sure to investigate the laws of your target market(s) and comply.

Having done your homework reviewing CANSPAM and e-mail regulations associated with your target market, you might also consider using an e-mail marketing service, one that provides all the software and tools needed to create and execute e-mail marketing campaigns. The data and statistics provided by e-mail marketing services make it simple to determine the success of a campaign. The top ten 2016 e-mail marketing services are reviewed at Top Ten Reviews.^{xxxii}

Last, with regard to digital channels, it is encouraging that SMEs, like yours, are broadening their market presence in global markets at a far lower cost than ever before. SMEs are now seeking new businesses and consumers in regions and countries they had previously thought were beyond their reach. By adopting e-commerce^{xxxiii} and m-commerce,^{xxxiv} cheaper international delivery, and streamlined digital store platforms, they are connecting to more than 3 billion people connected to the Internet. This global interconnectedness has increased competition to the extent that SMEs now need to focus on improving the end-user experience on mobile devices, providing a strong technology infrastructure via cutting-edge mobile applications. Their biggest challenge is to stand out with a stunning and interactive mobile application (app) that engages and retains buyers at every level everywhere.

With this in mind, Scott Gerber^{xxxv} has a good list of some essential features that will keep your e-commerce mobile app competitive and user friendly.

1. **Feedback system** – give users the ability to report technical issues, offer suggestions, even criticism.
2. **Usability** – mimic widely used apps like Facebook, Instagram, and Twitter.
3. **Customization** – be able to adjust settings aligned to user needs and preferences.
4. **Remember its core function** – it is a phone.
5. **Use a single sign-on technology** that allows social media logins and password retrieval.
6. **Maintain relevancy** – provide relevant information and deliver hassle-free use.
7. **Push notification** – inspire immediate user response to time-sensitive promotions and offers

8. **Analytics** – obtain key data about user behavior.
9. **Eliminate clicks** – simplify sign-up effort by seeking only essential information.
10. **Don't change!** – preserve the same features of your browser-based system on your mobile app.
11. **Offline capabilities** – include features that are wireless.
12. **Gamification** – make using the app fun!
13. **Prioritize speed** – a slow app will quickly lose users and sales.

Having researched the global marketplace, identifying the most promising markets for your products and services, and creating a marketing plan, you will have developed a strategy to enter those markets. Your strategy may involve selling directly to customers or distributors to reach the end user, using a business-to-business (b2b) or business-to-consumer (b2c) commerce platform, or a combination of these approaches. Whichever of these strategies you select to find customers, you can make it more effective by taking advantage of the private and public sources that offer help in locating customers, evaluating trade shows, missions, and generating sales. Generally, the sources fall into two categories: private and government. We'll examine government sources later, but first here are some private approaches to searching for international sales help.^{xxxvi}

- Search LinkedIn and other professional social networks to find contacts and ask questions in the country or region desired.
- Locate associations and people by doing a Google search within your industry and country.
- Search the desired countries' biggest publications for relevant articles and the people behind them.
- Research local (target country) executive recruiters, local and niche job boards, and local newspapers to learn more about how talent in a particular region finds the best employers.
- Visit the country to conduct interviews with potential partners and meet with association leaders in your industry and prospective hires for sales positions.

In using an online sales approach to generating sales, you still need to learn about making overseas shipping, how to collect foreign taxes, duties, and customs laws, and dealing with foreign currencies (look into facilitating acceptance of different currencies using PayPal). Also use your website to

target new foreign markets by translating key parts (product description, pricing, and payment) into other languages using translation software, and free Internet tools, such as Babel Fish,^{xxxvii} or human-based translation services. Employing someone fluent in the language of the foreign market minimizes the risk of misunderstandings, even offending the prospective customers you are promoting your product and services to.

Last, it is also important to understand the code of conduct expected for electronic merchants in overseas markets. The United States and 28 other countries have developed guidelines that stipulate firms doing business online internationally should do the following:

- Engage in fair business practices involving the presentation of “truthful, accurate and complete” advertising and marketing information to consumers.
- Disclose information about the company and the products you offer so that international consumers know “who they’re dealing with and what they’re buying.” This includes your home and local office addresses, e-mail addresses, and telephone numbers.
- Be upfront about the costs involved in the transaction (most importantly, the currency being used), as well as the terms and conditions of the sale, including any warranties and guarantees.

In selling to emerging markets, act like a local sales and marketing representative by doing the following:

- Getting on the ground, that is, direct sales with a presence in-country.
- Cultivating relationships and establishing representation and distributor agreements with well-connected and respected partners.
- Recruiting and developing in-country resources with needed skills and abilities.

Global interconnectedness offered by the Internet today offers you and your firm the opportunity to develop a tremendous potential customer base making marketing your products and services the low-cost alternative to traditional international marketing. Broaden your firm’s market presence worldwide by adopting e-commerce and electronic business practices that are user friendly for non-English-speaking users. Ensure the translation, color, and features of the message you want to be delivered to your customers are accurate. To do that, recruit the services of a bilingual native of your target market(s) and grow your global business!

Here's a Quick Way to Understand Distribution and Carve Out a Strategy

Being successful as a global marketer demands your firm's products and services be available and accessible to customers where and when they need them so generating and executing a distribution strategy that achieves this essential goal is essential to surviving in international markets. Thus, it is important to understand that distribution includes the physical flow of storage, warehousing, and movement of your product, the passage of title (ownership), and importantly, the buying and selection negotiations that take place between your firm and its middlemen and between middlemen and your ultimate customers.^{xxxviii} Recognize each target market has a distribution structure composed of middlemen, your channel partners and their competition, which include the agents, distributors, wholesalers, retailers, and direct sales forces that will deliver your product and associated services.

In product distribution, the greatest hazards and risks include loss or damage to shipment, inattention, and non-payment, so your careful evaluation and choice of channel partners are essential. Awareness about overseas markets, unannounced visits, sales force deployment, and detailed analysis of physical distribution cost and hurdles will enable you to simplify the international distribution of your product and offer unexpected customer service.

Recognize that in committing to using any channel partner, you and your firm are bound over the long term to the effects of cost, flexibility, control, and reputation, so consider your firm's distribution choices carefully to ultimately ensure you establish a competitive advantage building the most efficient and effective channel.

In distribution, never assume the target market's distribution system is the same as your own. Retail size patterns, direct marketing, and internal system resistance to change affect composition of the target market's system. In some markets, companies sell to large, dominant retailers directly establishing a good business relationship with them. In other markets you distribute product through small retailers and in each circumstance large or small, you will have determined the costs of either retail avenue. You may consider retaining a local distributor capable of collecting debt, should that be needed. Direct marketing, in which customers are approached through the mail, telephone, and even door-to-door sales, may be the best approach for some marketers and markets. You may even decide to sell a product online, but realize there can be issues with international freight, even lost shipments, so insuring shipments can be cost effective and worth the expense.

In choosing your middleman, you can take total control using your own domestic sales team trained in the culture or depend on many different channel partners that know the culture and sales practices of the marketplace. In doing so, select channel partners that are reputable, practical, cost effective, and geared to your firm's marketing objectives selecting among three types: home-country middlemen, foreign-country middlemen, target market government-affiliated middlemen. Prior to deciding on any channel of distribution or middlemen, determine the specific market you are targeting; your goals in terms of volume, market share, and profit margin; your financial and organizational commitments to international distribution, and how you can control the length of your channel, its characteristics—depth of market coverage, and competitive practices. Determine the terms of sale, legal requirements of the target market and cost of overall channel ownership.

After selecting any channel partner, it is best to reach a written agreement detailing the scope of commitment, its effective date and duration, description of sales territory, discounts and commissions, and determination of when and how it is paid. You must also address responsibility for protection of in-country patents and trademarks you have filed, assignability or non-assignability of the agreement, the country and state of contract jurisdiction in case a dispute arises. Given the above, it is best to consult legal counsel through the local bar association.

Researching Global Markets

Globalization and free trade do spur economic growth, and they lead to lower prices on many goods.

—Robert Reich, Professor of Public Policy at the University of California at Berkeley and Senior Fellow at the Blum Center for Developing Economies

Given the complexity of the global marketplace, solid market research is critical for a host of global market decisions you will make. To avoid offending prospective customers culturally or sending an inaccurate product message, it is necessary to avoid inadequate marketing research or skipping the research phase in the international market decision process altogether. Such steps can often prove to be costly, leading you to reach inaccurate marketing conclusions, ineffective promotion, and even the potential of having to withdraw from the targeted market entirely generating what could be a substantial loss on investment.

Global market research and analysis, if done well, will assist you in identifying competing products and their characteristics—types, variants, potential, profitability—if any, making better decisions that recognize cross-country similarities and differences, and gaining support from the local information sources for proposed market decisions that affect price, promotion, and distribution.

Skipping the research phase in the international market decision process can often prove to be a costly mistake.

To some degree, the procedures and methods that are followed in conducting global market research are nearly the same as those you use in conducting standard market research in your home marketplace. But let's make sure your understanding is correct. Market researchⁱ is the systematic gathering, recording, processing, and analyzing of market data, which—when interpreted—will help the marketing executive uncover opportunities and reduce risks in decision making. Market research practice in the global marketplace uses most of the market research skills, practice, and knowledge used in researching the domestic market scene (e.g., questionnaire design, hypothesis testing-data analysis, measurement scales,ⁱⁱ and multivariate techniques such as multiple regression,ⁱⁱⁱ cluster,^{iv} and conjoint analysis^v). Also, the typical sequence of a multi-country market research process follows the familiar blueprint you follow in conducting domestic market research. Specifically, the steps you take in conducting global market research generally consist of the following:^{vi}

Statement of background or problem/opportunity definition – any research starts with a precise background statement or definition of the research problem or opportunity to be addressed. Is the research exploratory, descriptive, or causative? Exploratory research^{vii} is analysis conducted for a problem that has not been clearly defined. It is conducted when the researcher does not know the structure of the market and the data alone in the form of household purchases or consumer judgments provides the basis for structure of the market as when, for example, the customer evaluates the quality of a bank or a hotel or an airline. Descriptive research describes data and characteristics about the population or phenomenon being studied, answering the questions who, what, where, when, why, and how. For example, a study to understand buyer behavior and describe characteristics of the target market is a descriptive research. Causative research^{viii} is done to establish a cause-and-effect relationship where a change in one variable produces a change, influences, or determines another like the influence of income and lifestyle on the customer's purchase decision or testing the effect of a 10% raise in its product's prices. In a causative research, unlike exploratory or descriptive, hypotheses, such as what consumers would be willing to pay a premium price for the product, are tested.

Once the nature of the research problem becomes clear, the research problem needs to be translated into specific research questions. Try to view the research problem from the cultural perspective of the foreign customer, eliminating your own personal cultural bias. Doing so may require selecting and

retaining an in-country marketing research firm for every step of the research process. A local firm may be essential in understanding the local culture, offering feasible survey methods, helping with questionnaire design, and interpreting results. In defining the research problem assessing the strengths and weaknesses of competing products, analyze the customer demographics, socioeconomic factors, and current marketing mix factors—positioning, segments, price, promotion (advertising), and distribution. For example, a positioning study conducted for BMW in the European market addressed the following issues:

1. What does the motorist, in the country concerned, demand of his/her car?
2. What does s/he believe s/he is getting from various brands?
3. What does that imply with regard to positioning the BMW brand across borders?

or

From the perspective of a consumer products company interested in knowing what percentage of Brazilian consumers use sunscreen products for face and body, the researcher might ask:

Do you use sunscreen products? (2 answers possible – Yes/No).

If not, have you ever investigated or seriously considered purchasing sunscreen products for your face and body? (2 answers possible – Yes/No).

You identify the background, objective, and develop a research design, the plan, and structure required to obtain answers to research questions.

Background – This would include considering the product – product types/product variants, size of the market, its growth rate, the competitive environment – share of the market, cumulative sales volume, and vulnerability of competition, and profitability – margin size – unit contribution to profit and rate of return on investment.

Objective – Your objective is to clearly explain your study objective – why the study is being undertaken, what the study is designed to measure, and how the information will be used. The research should help answer key marketing questions such as:

- What are the purchase and usage dynamics with the product market?
- What is the attitudinal framework for the product?
- What demographic and attitudinal factors are best associated with usage of the product?

Research Method. You select:

- The sample – who and how many respondents to include.^{ix}
- Data collection method – whether you use secondary data, a mail or telephone survey, or personal interview.
- Design element, that is, what are the respondents going to be exposed to. Is a survey or experimental design most appropriate?

You determine your information needs relating to:

- Measuring content, that is, what should be measured?
- Measurement technique, that is, how should it be measured?

You collect the data (primary and secondary) – Primary data (information) are data collected specifically for the purpose of the research need. This data is customized and unique to your research, thus, not collected from research sources, such as books, magazines, and government reports. Examples would include observation, experimentation, interviews, surveys, and expert estimation. Secondary data (information) are data or information that was either gathered by someone else (e.g., researchers, institutions, other Non-Government Organizations, etc.) or for some other purpose than the one currently being considered, or often a combination of the two.^x Sources of these data can be country or technical reports, scholarly journals, trade journals, in-house or external publications, articles in business newspapers, and reference books.^{xi}

As a researcher, your first step is determining which organizations—government or private, conduct research on the topic or product in question. Government documents and official statistics are great for starters, but beware of their quality as they will vary, depending on the country of study and resources dedicated to data collection.

There are a number of survey methods to choose from (mail, telephone, etc.), and you may choose to use a survey followed by developing a sampling plan to collect the data, that is, a plan to determine the sources of the information needed, and who you will approach. After making these decisions, you will collect the information and distribute the questionnaire or telephone respondents, etc. To minimize the cost of collecting primary data, explore the prospect of using an omnibus survey;^{xii} a quick, low-cost useful tool for preliminary research that contains consumer-related questions administered by a research company on a regular basis to a very large sample of consumers. The research company asks the right number of questions that get to the essence of needed data and standard demographic information, profiling the sample with the expense shared by another company in need of the same information.

You analyze the data and interpret the results – describe how the data collected will be analyzed and interpreted. The data you collect may require analysis possibly requiring the use of statistical tools that reduce the data, summarizing it, and making the most important facts and relationships apparent. In researching your market, you or a qualified marketing researcher, must be able to select the correct statistical tool to generate the information required based on the source data.

You report and present research findings and act on the conclusions.

It's time to take action by producing market forecasts, delivering insights on the market, and developing marketing campaigns that put your findings to the test. Although your research is complete, it is not over. You should be collecting and analyzing data regularly to see what has changed over time and where you can improve. The more you know about the target market, industry, and companies involved, the more successful your marketing efforts will be.

A typical example of a multi-country market research project^{xiii} is that which Plethico Pharmaceuticals Limited, an Indian Company, conducted in estimating the market potential for a ladies' facial acne removing cream:

Research Problem: Estimating the dollar potential for a ladies' facial acne removing cream in Sri Lanka, Thailand, Singapore, and Bangladesh.

Research Hypothesis: Customers must be willing to purchase this premium product at a premium price over and above the best of local products.

Research Coordinators: The research project will be headed by a lady executive and the field surveyors will also be female executives. (Preferably)

Primary Data Research:

- 500 beauty and skin clinics from Sri Lanka, Thailand, Singapore, and Bangladesh.
- 200 female clients to be interviewed, both through individual contact and focus group discussions.

Secondary Data Research:

- Total sales of premium facial acne removing creams in countries of research.
- Percentage share catered to by local manufacturers.
- The percentage share of international brands.
- The incidence of acne growth in the country of research.
- The incidence of facial acne cream being used among ladies.
- Price variant between the premium segment and second-line products.

Sampling Procedure: a random selection from among the most frequented and popular clinics. Data to be collected:

- Data of customers from beauty and skin clinics.
- A questionnaire distributed through the clinics.
- Telephone interviews.
- Focus group discussions.

Analysis: Data collected will be analyzed using standard cross-tabulation analyses plus a number of multivariate statistical techniques in order to answer the key research questions.

- What is the underlying need structure with the ladies' facial acne removing cream market?
- How is the market segmented in terms of usage dynamics?
- What are the strengths and weaknesses of the Plethico ladies' facial acne removing cream?

At each of these six steps, special problems may arise when you research foreign markets. The major challenges that you might confront are these:

1. **The complexity of research design due to environmental differences.** In developing your research design, you need a thorough understanding of the target country's culture to ensure you obtain satisfactory response rates, for example, e-mail surveys to replace mail and phone surveys where the Internet is unavailable.^{xiv}
2. **Technical issues** (e.g., the Internet, e-mail surveys, etc., should they be used) may intimidate respondents resulting in non-response bias^{xv} making factors as overall response rate and non-response important.
3. **Lack and quality of secondary data.**
4. **Time and cost requirements** for collecting primary data are considerations for keeping the research project on schedule and at an affordable cost.
5. **Coordination of multi-country research efforts**, if you are contemplating entering more than one market.

Don't let these research steps and special problems overwhelm your research effort! Should the expertise not reside in house, it pays to retain an in-country marketing research firm. The effort is doable and worth the investment of time, manpower, and dollars. Market research, if done well, dispels any illusion about the target country market and can be the key that unlocks the profit potential of the foreign market you are targeting for entry.

Emerging Markets

Experts in global exporting are convinced that emerging countries offer many opportunities for lucrative exporting deals. From Thailand and Malaysia to Brazil and Colombia, exporters are targeting some of the most promising markets in the world, thanks to domestically driven growth, favorable demographics, and supportive government policies. What are the regions that hold the most potential for exporting at the moment? Here's a brief review of regions to focus your global business development efforts and outreach strategies along with the 2016 list of product/service markets offering the greatest exporting potential.^{xvi}

Aircraft Parts	Franchising
Automotive Parts	Industrial Automation
Building Products and Sustainable Construction	Manufacturing Technology
Civil Nuclear	Medical Devices
Cloud Computing	Oil and Gas Equipment
Cold Chain	Pharmaceuticals
Construction Equipment	Recreational Transportation
Education	Renewable Energy
Financial Technologies	Smart Grid
	Technical Textiles

Africa

With the focus placed on **Morocco, Kenya, Côte d'Ivoire** (Ivory Coast), and **South Africa**, Africa emerges as the next big thing in exporting. African economic development organizations and regular companies are on the lookout for resources that would help them to build infrastructure, apply upgrades to their agriculture, improve their services, and boost their manufacturing potential. A sample of projects includes transportation and trade logistics, Internet data center development, geothermal energy, refinery modernization, gas-fired power plant development, smart grid modernization, disaster preparedness and recovery, imported food and beverages.

Most African countries experience a widespread use of smartphones and related technologies that range from online shopping, mobile applications, online banking, alternative paying systems, and many others. There are many software companies that aim at this growing market by building mobile applications (apps) and online products to help those societies connect with new products and services.

Technologies are sought after by African companies for building better infrastructures, as well as applying improved agricultural and service solutions. All this makes Africa one of the places with the most export potential.

Brazil

In 2016, Brazil, with the largest population in South America, hosted the Olympic Games reaching out to acquire various solutions for areas like engineering or manufacturing. A world power in agriculture, the country is a vibrant marketplace and one of the largest information technology (IT) markets in the world. Strategic sectors include clean energy, transportation,

and telecommunications. Other sectors of interest include agribusiness, water, and the environment.

It's important to remember that understanding Portuguese is crucial in dealing with Brazilian companies. If you plan to reach out to this market, start looking for experienced translators and interpreters to help you orient yourself to this new market. Leila A. Afais, director of export promotion at the U.S. Trade Development Agency, advises companies to double-check with local officials to make sure their imports are assigned to the proper category because restrictions vary by classification. Promising markets include agricultural processing equipment, consumer products, computers and information technology products and services.

In Brazil, as in other Latin American markets, U.S. e-retailers must plan and execute well to overcome poor road conditions, extremely high import taxes, fluctuation in currency exchange rates, the threat of economic recession, political unrest, and an abundance of bureaucratic red tape in entering the region as did the 41 U.S. retailers ranked in the 2015 Latin America 500.^{xvii} These grew their combined sales over 18% to just over \$2.41 billion in 2014. Despite regional deceleration in e-commerce growth in 2016, challenges, and Brazil's rural shoppers having to find American brands they demand, American e-retailers can anticipate the total number of Brazil's on-line buyers to grow to 61.8 million prompting total online retail spending to reach \$40.8 billion by 2019, according to Forrester Research Inc. The Brazilian e-commerce research firm eBit anticipates the coming years will present opportunities for e-retailers in fashion and apparel, sporting goods, health and beauty, despite strong competition from well-known retail chains in Brazil—like Lojas TA Qi^{xviii} and FastShop^{xix} and Chinese sites like AliExpress.^{xx} Key to competing will be price, offering multiple payment and delivery options, and localizing Portuguese on websites. Even with local retail competition and variation in growth potential, now could be the perfect time for American e-retailers to expand their operations globally to include Brazil.

Chile

With a narrow strip of land between North Pacific Ocean in the west and the Andes in the east, the Republic of Chile is located in the southern part of South America. The Global Business Policy Council of A.T. Kearney, Inc., a global consulting firm, included Chile in its list of key emerging countries driving the next wave of global growth between 2014 and 2020.^{xxi} The country, a stable, democratic nation, has a market-oriented economy characterized by a high level of foreign trade and a reputation for strong financial institutions. Sound economic policies have contributed to steady growth and helped secure the country's commitment to democratic and representative government.

Chile continues to be very open to foreign investment and trade as evidenced by its 22 trade agreements covering 60 countries, including agreements with the European Union, Mercosur, China, India, South Korea, and Mexico. Chile is also known for having the most transparent governance and best rule of law in the region.^{xxii} Trade opportunity exists for exporters in certain categories, especially those that include crude and refined oil, coal, gas and lubricants, machinery and parts, cars, computers, mobile phones and house equipment, trucks, buses, and other transport vehicles, chemicals, and metal products.^{xxiii}

Peru

Located in western South America, bordering the South Pacific Ocean, between Chile and Ecuador, is a country whose economic fortunes are on the rise following recent structural reforms and continued economic liberalization. Its economy grew by an average of 5.6% from 2009–13 with a stable exchange rate and low inflation. Economic growth of late has been driven in part by Peru's endowment of minerals—silver and copper, and natural gas. The country's dependence on minerals, metals exports, and imported food-stuffs does make the economy vulnerable to fluctuations in world prices.^{xxiv} After decades of populist or authoritarian politics, Peru's government has become part of Latin America's new, more pragmatic left, combining liberalization with social spending. As a result of this orthodox policy mix, the Economist Intelligence Unit (EIU) predicts that Peru's productivity growth of real Gross Domestic Product (GDP) will average 4.0% annually between 2015 and 2030.^{xxv} Poverty and unemployment levels have fallen dramatically in the last decade enabling Peru to become one of the best performing economies in Latin America. Peru's membership in the Pacific Alliance highlights the country's outward-looking policies, as well as its higher growth potential. Trade opportunity in Peru exists for exporters of agriculture and food products, crude and refined oil, trucks, buses, light trucks, industrial machinery, and equipment.^{xxvi}

Canada and Mexico

These two countries, parties to the North American Free Trade Agreement, have long been trading partners of the United States and represent the first and second largest export markets for American products according to the U.S. Census Bureau's April 2017 report.^{xxvii} Companies interested in exporting to these countries will find many helpful resources, easy shipping, and a need for similar products that serve their expanding wealthy middle class populations.^{xxviii xxix}

Considering the absence of legal precedent that exists in U.S. legal tradition, differences in the laws governing contracts and differences between U.S. and the Mexican Civil Procedures and Rules of Evidence, it is prudent to retain a

lawyer before making agreements with Mexican partners. Promising markets in these regions are consumer products, packaging and plastics, tourism, and tourism-related services, housing, and construction.

Germany

Located in the heart of Europe, Germany has made a name for itself as the largest buying power for robotics, hi-tech solutions, and manufactured products as evidenced by Germany's annual Hannover Messe^{xxx} (Fair), Hannover, Germany, "the world's premier industrial fair." Leading industry associations choose this event as a launch pad for global initiatives. The commercial relations between the United States and Germany are quite close—many German companies are based in the United States and present on the American market, all of which guarantee a certain ease of entrance in introducing new industrial products to this dynamic marketplace. In addition to industrial machinery and equipment trade, opportunity in Germany exists for exporters of electrical products, vehicles, and mineral fuels. Other export opportunities include pharmaceutical products, plastics, optical, and photographic products.^{xxxi}

Poland

Located in Eastern Europe next to Germany, is an attractive location in the region for business, given its access to the Baltic Sea, diversified economy, and business-friendly regulations.^{xxxi} As a result, the country, with a population of about 38 million, has the sixth largest economy in the EU. The government, with largely sound macroeconomic policies, has invested in infrastructure, education, and plans for other expansionary policies to spur long-term growth of 2.3%, progressive by EU standards. Since 2015, however, the government's spending on social welfare programs has prompted a decrease in economic growth projections in the short term. GDP is projected to pick up in 2017 to 3.3% and stabilize around 3.2% over the medium term, driven by robust private consumption, a strong labor market, and an industrial structure dominated by low- and medium-tech manufacturing. Promising import markets to Poland include capital goods needed for industrial retooling and for manufacturing inputs, more specifically, machinery and transport equipment, intermediate manufactured goods, chemicals and chemical products, minerals, fuels, and lubricants.^{xxxi}

Asia

The last region crucial for global export covered here is Asia. Despite the predicted lower GDP growth this year, China is still a large global presence and will be a great market for many companies able to propose and deliver projects in the transportation, energy, information technology, and health care sectors.

Asia-Pacific leads the way in buying and the United States in selling. Cross-border online consumer purchasing is increasing 28% a year and will reach \$1 trillion by 2020, according to a June 2015 report released from consulting firm Accenture and AliResearch, the research arm of Chinese e-commerce giant Alibaba Group Holding Ltd.^{xxxiv} Much of the purchasing will come from web shoppers in the Asia-Pacific region, which will account for 48% of cross-border online purchases in 2020, the report says. The report indicates there will more than 200 million cross-border online consumers in China in 2020, the most of any country. The strong demand from China's growing middle class will boost cross-border online purchases to about \$245 billion in five years.

As reported by Frank Tong in the June 2015 issue of *Internet Retailer* magazine,^{xxxv} [China-based e-retailer JD.com](#) is adding products from foreign brands and retailers to widen its selection of international brands—Gap, Forever 21, Nine West, and Steve Madden, which Chinese consumers are extremely excited about getting. JD.com is handling its own logistics, including owning its own warehouses and delivery vehicles rather than relying on other companies.

Chinese shoppers are spending a growing portion of money with online retailers. The 500 largest e-commerce players in China increased their sales 59.1% last year, well above the country's roughly 50% e-commerce growth rate, according to the China 500. That means the big are getting bigger. JD.com and several other large Chinese e-retailers more than doubled their online sales last year.

That type of growth curve is unique; there aren't any other large e-retailers around the world that have experienced as fast of growth as these Chinese companies, including Amazon.com Inc. That growth is being propelled by Chinese merchants' heavy investments in mobile shopping technology, logistics, and connecting their websites and physical stores. U.S. small- to medium-sized companies can still benefit by entering the Chinese marketplace even if they are not big e-retailers.

Another important country is **India**, an emerging market located in South Asia with a big appetite for goods and services where the increase of a multi-lingual and multiethnic population is a factor powering the outreach for help in building the local economy. Indian public and private sectors will be on the lookout for innovative health care and infrastructure solutions, for example, renewal power generation and demand response projects. Challenges in this market include high tariffs, multiple languages and cultures, and poor transportation infrastructure. Promising markets in India include education services, industrial textiles, food processing and cold storage equipment, electronics, consumer goods, clean energy, and pollution control equipment. The country also imports crude petroleum, gold, and silver, machinery, chemicals, electronic goods and pearls, precious and semi-precious stones.^{xxxvi}

Other important countries in South Asia—**Indonesia, Malaysia, Thailand, Taiwan, and the Philippines**—are all interested in purchasing medical devices, software solutions, and automation technologies for their manufacturing. Regulatory environments remain formidable and infrastructure inadequacies (e.g., toll roads, bridges, airports, and harbors) can make doing business expensive, but worthwhile. Strategic sectors that offer the greatest opportunity for developmental and commercial impacts include clean energy, energy security, transportation, construction materials, and telecommunications.

After considering these global market prospects for 2017 and beyond, take the time to translate your firm's promotional materials to the languages of these markets, ensuring the translation accuracy, and that cultural nuances convey your message completely and accurately, leaving no room for misinterpretation. This may entail employing the services of a bilingual, native speaker. It is imperative your message is clearly communicated.

Making Contacts and Finding Customers

Think globally, act locally.

—Akio Morita, cofounder of Sony (1921–1999)

It's true: you really can master global markets. And here's how. Home-country firms generally have U.S. government agencies, lead producing and sales generating programs, and non-government support to turn to for assistance in growing your global markets. Prospective global business firms can tap the resources of the U.S. government and its various departments for assistance.

U.S. Government Sources

The U.S. Department of Commerce actively support U.S. exporters while other departments (e.g., Bureau of Industry and Security, and Trade Adjustment Assistance and the Trade Compliance Center) play supporting roles:

Trade Information Centers are the first comprehensive stop for companies seeking U.S. government export assistance. International Trade Specialists are available with expertise in specific regions and industry sectors are prepared to provide (1) information on locating and using government export programs; (2) guidance through the export process; (3) directions for market research, statistics, and trade leads; (4) information addressing domestic and overseas trade events and activities; (5) sources of public and private export financing; and (6) references to state and local trade organizations.

Export Assistance Centers – For assistance with exporting and conducting business abroad, U.S. companies can contact offices known as Export Assistance Centers (EACs) located in almost 100 U.S. cities and Puerto Rico to assist small- and medium-sized companies. The EACs combine the trade and marketing expertise and resources of the U.S. Commercial Service along with the finance expertise and resources of the Small Business Administration (SBA) and the Export-Import Bank (Ex-Im Bank). EACs work closely with state and local government as well as private partners to offer companies a full range of expertise in international trade, marketing, and finance.

Overseas Posts – Commercial officers of the U.S. Commercial Service, working onsite in 67 countries, gather information about trends, actual trade leads, and identify prospective foreign partners through an array of specialized marketing and due diligence programs. As a result, they have a personal understanding of local business practices and local market conditions, enabling them to provide information about foreign companies, agency-finding services, and market research. Additionally, they can make appointments with key buyers and government officials representing companies adversely affected by trade barriers.

Trade and Development Agency – The U.S. Trade and Development Agency (USTDA) promotes economic growth by funding project preparation and facilitating the participation of U.S. businesses in the planning and execution of infrastructure development projects in partner countries. USTDA's International Business Partnership program has been a catalyst for opening new markets for U.S. companies, large and small, looking to expand sales overseas. Sectors that represent the greatest opportunity for growth in U.S. exports include energy, transportation, and telecommunications. Small consulting and engineering firms define projects, offer specific guidance, and evaluate technical and economic impact in addition to competing for USTDA-funded feasibility studies, training, and technical assistance activities. Connect with the USTDA at its headquarters and overseas offices.

The Advocacy Center – is a unit of the U.S. Department of Commerce International Trade Administration that works closely with U.S. Commercial Service domestic Export Assistance Centers and Commercial Offices within U.S. diplomatic missions overseas, to promote fair and equal treatment of small, medium, and large U.S. contractors and their effort to win competitive foreign government public sector contracts. The Center, via its staff of liaison officers, with links to Multilateral Development Banks (The World Bank, Inter-American Development Bank, African Development Bank, European Bank for Reconstruction and Development, and the Asian Development Bank) works to increase the proportion of invitations to bid that U.S. contractors win. Contact the center at 14th Street & Constitution Avenue, N.W.—Rm. 10020, Washington, DC 20230 at telephone (202) 482-3896.

Minority Business Development Agency (MBDA) – Minority businesses have a competitive advantage in global trade based on their cultural ties, language skills via this government agency dedicated to their growth, and competitiveness in global markets. That said, the MBDA provides minority businesses technical assistance, access to capital, large contracts, and new market opportunities worldwide. Its more than 40 Minority Business Development Centers help minority business enterprises (MBEs) prepare international marketing plans and promotional materials and to identify needed financial resources. Contact the Minority Business Development Agency, Office of Business Development, U.S. Department of Commerce, 1401 Constitution Avenue, Washington, DC 20230; telephone (202) 482-1940.

District Export Councils – (DECs) are local organizations comprised of business leaders with export skills and international business expertise available to firms in their respective regions. A total of 59 DECs affiliated with the U.S. Commerce Department's Export Assistance Centers, the U.S. Foreign Commercial Service, and the National DEC, exist throughout the country with a total membership of approximately 1,500 export-ready members available to assist small- and medium-sized businesses in their local communities establish or increase export sales while creating jobs. The DECs engage in a variety of activities among which are mentoring local businesses in exporting, identifying sources of export financing, advocating trade policy and legislation supporting the U.S. export sector, providing export training and education through Export University programs.

The U.S. Small Business Administration – helps Americans start, build, and grow businesses through an extensive network of field offices in cities throughout the United States. It partners with public and private organizations to offer small businesses and fledgling exporters several no-fee services such as those offered by the following:

- Small Business Development Centers – SBDCs supported by headquarters and SBA regional offices provide business consulting and low-cost training services that enable small

businesses to open and profit from international markets. For the address and phone number of the SBA office nearest you and the SBA Office of International Trade see <https://www.sba.gov/tools/local-assistance/sbdc> and <https://www.sba.gov/oit>.

- Service Core of Retired Executives (SCORE) is a membership of businessmen experienced in business and international trade that can guide and mentor entrepreneurs and fledgling global businesses in developing and implementing basic export marketing plans that show where and how to market their products and services in the international marketplace. In addition to offering the services of mentors, SCORE offers free business tools, templates, and inexpensive or free workshops and webinars. SCORE's 320-plus chapters hold local events and workshops across the United States.
- Export Legal Assistance Network (ELAN) is a nationwide group of attorneys in private law firms that help new exporters learn the legal aspects of international trade. Attorneys in the network offer a free initial consultation to provide a reasonably detailed overview of the legal issues your firm may face in exporting to international markets. Basic contractual requirements, taxes and regulations, and introductory information on other necessary resources, such as banks, freight forwarders, insurance companies, and state and federal programs to expand exports will be explained in a consultation that will last long enough to identify the legal issues challenging your firm. Thereafter, you are free to handle the next steps yourself or to hire an attorney to complete them for you. To contact ELAN, contact your regional ELAN coordinator via www.exportlegal.org.

The U.S. Department of Agriculture Foreign Agricultural Service (FAS) operates with a global network of 93 offices covering 171 countries staffed by agricultural attachés and locally hired agricultural experts. The FAS expands and maintains access to foreign markets for exporters of U.S. agricultural products. The FAS supports four State Regional Trade Groups (SRTG) assisting U.S. food and agricultural businesses with the entire exporting process. In addition, the FAS partners with 75 cooperator market development groups representing a cross-section of the U.S. food and agricultural industry and manages a toolkit of market development programs to help U.S. exporters develop and maintain markets for hundreds of agricultural products. The FAS, SRTGs, and market development groups work to assist agri-businesses learn

the fundamentals of marketing their products through trade shows and missions to make U.S. agriculture a global business.

State and Local Government Sources

State economic development agencies, departments of commerce, and export promotion agencies often provide an array of services to exporters, with many states maintaining international offices in major markets that work closely with U.S. Commercial Service offices. In many parts of the country, county and city economic development agencies also have their own export assistance programs that typically include the following:

1. Trade missions organizing trips abroad enabling exporters to call on potential foreign customers.
2. Trade shows organizing and sponsoring exhibitions of state-produced goods and services in overseas markets.
3. Executive visits with foreign government officials and business leaders to bolster economic and diplomatic relationships with other countries.
4. Education in the form of group seminars or individual counseling sessions that helps exporters analyze their foreign market potential and orients them to export techniques.

State development agencies also cooperate with the National Association of State Development Agencies a national, nonprofit, trade association that provides members with a wide variety of training services, workshops, technical assistance, and data analysis in the area of economic development.

Both avenues, public and private, offer rich possibilities for locating customers and generating sales.

Non-Government Sources

Non-government sources offer a full range of trade solutions enabling exporters to smoothly complete their transactions, and mitigate risk and other concerns that might arise in executing their export transactions.

Commercial Banks – have long been involved in international finance and the import-export industry. The global nature of commercial banking makes possible the reliable transfer of funds, and distribution of valuable economic

and business information about customers and capital markets around the globe. With foreign branch banking and their presence in local markets, they offer a full range of trade solutions enabling exporters to smoothly complete their transactions and mitigate risk and other concerns that might arise in executing import/export transactions. Consultation, guidance, seminars, even publications covering particular countries and their business practices, are frequently offered free of charge since the banks derive their income from loans and the following export-related services: trade finance (e.g., letters of credit, and managing foreign receivables), foreign exchange (converting and trading foreign currencies), corporate finance (loans to cover purchases of raw materials, machinery parts, inventory and/or payroll) and miscellaneous banking services (corporate checking accounts, currency-specific credit cards, and lock boxes).

Export Intermediaries – as reflected in the following list of players, perform a multitude of services that can often take full responsibility for the export end of the business, relieving the manufacturer of all the details except filling orders. Export intermediaries such as Export Marketing Companies specializing in your product line—Export Marketing Companies (EMCs) and Export Trading Companies (ETCs) can launch a firm's entry into international markets without the resource commitments (time and finances) required of a firm new to global markets, providing the firm is willing to trust brand development to others. The manufacturer maintains control over the export process while benefiting from the knowledge, expertise, and connections of such intermediaries. The EMC/ETC, working on the basis of commissions, salary, or retainer plus commission, assumes responsibility for finding overseas buyers, shipping products, and collecting payment, a potentially profitable approach for a small- to medium-sized manufacturer until such time as the manufacturer is able to assume marketing, sales, and distribution tasks on its own.

Export Merchants – purchase products directly from the manufacturer, mark, and package the goods using their own specifications and preferences, selling these products overseas and assuming the risk.

Export Agents – represent the manufacturer, act under their own name, and generally contract for two years or less.

Export Commission Houses – as agents for the export buyer, seek out manufacturers of products requested by importers. The commission house handles the majority of the transaction, thereby relieving both the exporter and the importer from a great deal of work.

Export Brokers – bring buyers and sellers together and are removed from handling or distributing the exported goods.

Buyer for Export – is a representative of large consumers of industrial goods, such as foreign government purchasing missions.

Export Management Companies (EMCs) – perform services that may include foreign market research, marketing strategies, foreign distribution, establishing a logistics system, managing and training a foreign sales force, shipping, and export information and details, arranging financial aid, and foreign language translation services.

Export Trading Companies (ETCs) – organizations designed to facilitate the export of U.S. goods and services. They serve either as a trade intermediary, providing export-related services to producers or as an organization set up by the producers themselves.

Freight Forwarders – manage overseas shipments of goods to foreign ports in return for a fee or product discount.

World Trade Centers (WTCs) and International Trade Clubs – are nonprofit, nonpolitical associations that stimulate trade and investment opportunities for businesses looking to connect globally and prosper locally. WTCA membership includes over 320 WTCs in almost 100 countries with over 750,000 affiliated companies. Both organizations feature presentations and educational opportunities by experts enabling the local business community to acquire practical skills and long-term strategic contacts for advancing international business.

Chambers of Commerce and Trade Associations – Chambers of commerce are local organizations that promote, protect, and represent the interest of businesses of all sizes in the community. They exist in many forms and at various geographic levels—local, area, regional, and international. Many exist with one full-time staff member, but thousands exist as volunteer entities. Trade associations, known as industry trade groups, business associations, or sector associations, are organizations founded and funded by businesses that operate in a specific industry. Depending on the interests of their membership and available resources, each provides sophisticated and extensive services for members interested in exporting.

American Chambers of Commerce (AmChams) – advance the interests of American business overseas. They are voluntary associations of American companies and individuals doing business in a particular country, as well as firms and individuals of that country who operate in the United States. Worldwide these associations include more than 117 American Chambers of Commerce in 103 countries. Through four regional organizations in Asia, Europe, the Gulf Countries, Latin America, and the Caribbean, AmChams pursue trade policy initiatives, make available publications and services, sponsor a variety of business development programs, and monitor major foreign markets for the latest news and information about local trade opportunities, activity, real and potential competitors.

International Trade Consultants and Trade Advisers – depending on their specialty, global region, or country, can assist manufacturers on many aspects of exporting. Although possibly lacking expertise in specific products, international trade consultants and trade advisers can perform a variety of services to ensure a smooth introduction of manufacturing operations, product, and service entry into foreign markets. Many large accounting firms, law firms, and specialized marketing firms, acting in a consulting capacity, are knowledgeable about foreign government regulations, contract law, and regulations, thus enabling exporters to minimize risk, tax, and legal exposure. It is particularly important to carefully evaluate their expertise to ensure your specific global business needs and requirements are adequately addressed. Since consultants tend to be expensive, it is best to first maximize publicly funded sources of advice before turning to consultants and trade advisers.

Take advantage of these private and public U.S. sources that offer help to American firms in locating customers. Firms elsewhere may have their equivalents. Both avenues, public and private, offer rich possibilities for locating customers and generating sales. Given that many of these sources of support cost nothing but your time, take advantage of them and don't go at this process alone. You and your team need to make the first move toward seeking market entry guidance!

Negotiating Around the World

Trade is the natural enemy of all violent passions. Trade loves moderation, delights in compromise, and is most careful to avoid anger. It is patient, supple, and insinuating, only resorting to extreme measures in cases of absolute necessity. Trade makes men independent of one another and gives them a high idea of their personal importance: it leads them to want to manage their own affairs and teaches them to succeed therein. Hence it makes them inclined to liberty but disinclined to revolution.ⁱ

—Alexis de Tocqueville, French diplomat, political scientist, and historian
(1805–1859)

So you've got a meeting in France. Speaking French is a good idea, but it's also valuable to understand the French communication patterns that will define your meeting. British linguist [Richard D. Lewis](#) charted communication patterns as well as [leadership styles](#) and [cultural identities](#) in his 2005 third edition of *When Cultures Collide*.ⁱⁱ The book does offers commentary on Africa, South America, and 25 countries—The United States, Canada, England, France, Italy, Germany, China, Hong Kong, Israel, India, Switzerland, Singapore, Australia, Korea, Indonesia, Hungary, Finland, Bulgaria, Norway, Denmark, Turkey, Poland, Spain, Sweden, and Holland.

In support of cross-cultural studies, Lewis writes:

By focusing on the cultural roots of national behavior, both in society and business, we can foresee and calculate with a surprising degree of accuracy how others will react to our plans for them, and we can make certain assumptions as to how they will approach us. A working knowledge of the basic traits of other cultures (as well as our own) will minimize unpleasant surprises (culture shock), give us insights in advance, and enable us to interact successfully with nationalities with whom we previously had difficulty.

What Makes Global Negotiations Different

The very word “overseas” has no place in Honda’s vocabulary because the corporation sees itself as equidistant from all its key customers.ⁱ

—Kenichi Ohmae, management thinker (1943–),
The Borderless World (1990)

Today, businesses of all sizes seek customers globally to create huge business development opportunities. The increasingly global business environment compels business development managers at these firms to approach negotiations in the global arena from a vantage point differently, accounting for aspects usually absent from those conducted in the domestic marketplace. Though challenging, some components of cross-cultural negotiation, if approached properly, will increase your success in avoiding pitfalls and failures that inevitably arise.

When negotiating internationally,ⁱⁱ we need to take into account how negotiations differ among cultures by examining the environment in which the players work and the immediate factors over which negotiators limit control. The environmental factors include the political and legal systems from which the negotiators come, international economics, foreign laws, governments and their bureaucracies, national economics, ideology, and differences in the approach the parties bring to the negotiating process. Immediate factors include the relative bargaining power that each party invests in the negotiating process; their view of time and the urgency of reaching agreement; the level of conflict, if any, between ethnicity, identities, and geography of the parties; the impact of previous negotiation between negotiators and their inclination toward taking risk; domestic and international political goals; personal goals; skills; styles; the international experience of the negotiators, their staff, and those they represent—stakeholders in the outcome.

Given what we just mentioned, you can see that any negotiator faces a huge challenge in the international environment. To be successful, negotiators must become cross-culturally literate, that is, understand how cultural differences across and within nations can affect the way they negotiate. So an understanding of culture is critical—although scholars have never been able to agree on a simple definition of *culture*. Here we follow Hofstede,ⁱⁱⁱ Namenwirth, and Weber^{iv} by viewing **culture** as a system of values and norms that are shared among a group of people and that when taken together constitute a design for living. The fundamental building blocks of culture are **values** (abstract ideas about what a group believes to be good, right, and desirable); and **norms** (the social rules and guidelines that prescribe appropriate behavior in particular situations).

Andrew Boughton advises that cultural differences cause four kinds of problems in international business negotiations that involve language, nonverbal behaviors, values and thinking, and decision-making processes.^v Differences at the level of language can be substantial in international negotiations, even when English is used. Although senior foreign executives may speak and understand some English, they rely on their native language and use an interpreter to ensure they accurately communicate the message they send and receive. Even in this setting during the fast pace of discussion, there will be some miscommunication as exact translations are difficult to achieve. Complicating the matter are nonverbal behavior differences that lie beneath the surface of the discussion. But even here, nonverbal signals like behavior and attitude, if missed, are subject to misinterpretation. Lastly, differences in values, thinking, and decision-making processes are hidden even deeper and are even harder for negotiators and their teams to detect.

In approaching an international negotiation, recognize there is no one “right” approach, only effective and less effective approaches and these vary according to the contextual approaches addressed earlier. As a result, if negotiators realize their counterparts may have very different viewpoints, they will be less likely to make negative judgments and generalizations about them and more likely to arrive at a mutually acceptable outcome.

Considering all the immediate and subsurface problems inherent in cross-cultural negotiations, one has to wonder how international business agreements are ever reached, but increasingly they are, despite the prospect of pitfalls in the negotiating process. Cross-cultural literacy and sensitivity to cultural differences can improve global business negotiating outcomes that lead to highly profitable business relationships.

Develop Cultural Awareness before Negotiating

Looking at the way world politicians and business people behave, it is clear the cultures of the world increasingly interact with each other. The business world is becoming increasingly global. Although globalization opens many opportunities, it also creates many complex challenges for traveling the world as a buyer or a seller seeking business agreements and ventures in the global arena. If you're interested in taking advantage of opportunities to accomplish a firm's international business goals, you'll need a deep level of knowledge in finance and currency, global strategy, and foreign legal and accounting practices, along with sharp cross-cultural negotiating skills. Don't make the mistake of approaching foreign markets the same way you would your domestic market. What works at home will not work elsewhere.

Negotiation is the process in which two or more entities come together to discuss common and conflicting interests to reach a settlement of mutual benefit. In international business negotiations, the process differs from culture to culture in language, behavior, negotiation styles, approaches to problem solving, hidden assumptions, gestures and facial expressions, and the role of ceremony and formality.

As a negotiator or a member of the negotiating team, you should be aware of the culture space of your counterpart. Negotiating in international markets is a skill, and it can be improved. The parties to a negotiation want to do business or they would not be talking in the first place. Success in international business results from the ability to bring two people together, but all too often, the obstacle is our perception of people from other countries. Frequently, one party negotiates with impossible expectations of the other party.

Glen Fisher^{vi} addresses five considerations for analyzing cross-international negotiations: (1) the players and the situation; (2) styles of decision making; (3) national character; (4) cross-cultural noise, and (5) interpreters and translators. Each consideration presents questions that should be answered before entering international negotiations.

The Players and the Situation – There is a cultural dimension in the way negotiators view the negotiation process that raises several issues. Form, hospitality, and protocol play important roles as they interact. The negotiator

and/or his team should discover the expectations of their counterparts and work to create a negotiating environment that leads to cooperation and solving problems. If possible, negotiators should also research biographical data and analyze their counterpart's organization or institutional role, especially the level of their authority to reach an agreement.

Styles of Decision Making – The organizational culture of a foreign corporation may require adhering to formal rules, regulations, and practices guiding its decision-making process. To influence a foreign corporation's decision-making process, analyze its corporate culture and structure arguments to fit within established guidelines you discover, if possible. By discovering how foreign counterparts look at facts and analyze data, negotiators can substantiate positions with facts that will lead to a successful outcome.

National Character – Foreign negotiators concerned with the international image may be preoccupied with their national heritage, identity, language, and organizational role. Cultural attitudes, such as ethnocentrism—the universal tendency for people to favor their own group over others, may influence the tone of the negotiating positions they take.

Cross-Cultural Noise – Noise consists of the environmental distractions that have nothing to do with the content of the foreign negotiator's message. Factors such as gestures, personal proximity, and office surroundings may unintentionally or intentionally (e.g., room temperature, furnishings, and location) interfere with communication. The danger of misinterpretation of messages requires awareness of various contextual factors.

Interpreters and Translators – Fisher points to limitations in translating certain ideas, concepts, meanings, and nuances. The subjective meaning may not come across through words alone. Gestures, the tone of voice, cadence, and language that lends itself to more than one meaning are all meant to send a message that is excluded in any translation. Sometimes a negotiator will try to communicate a concept or idea that does not exist in the counterpart's culture. For example, the Anglo concept of “fair play” has no equal in any other language. How then can an American or English national expect “fair play” from a foreign counterpart?

Interpreters and translators may have difficulty transmitting the logic of key arguments, especially when it comes to abstract concepts such as planning and international strategy. The parties may conclude they reached an agreement when they actually have entirely different intentions and understandings!

Fishers' five-part framework provides you with a launch pad for practical application. Consider its elements in preparing for your next global business negotiation.

Communicating in the Global Marketplace

To land and keep new customers and business partners in international markets, effective global marketers understand that communicating across cultural boundaries is challenging and must be done with care. They are aware that persons of dissimilar backgrounds usually need more time than those of the same culture to become familiar with each other, to speak openly, to share common ideas, and to understand one another even when they share a global business language like English.

Despite the ever-expanding evolution of modern communication technologies, doing business still requires communicating on a person-to-person basis. Should there be misunderstandings or “errors” committed, the parties involved very often are unaware of any problem. Cross-cultural missteps result when we fail to recognize persons from other cultural backgrounds have different goals, customs, thought patterns, and values from our own. Cultural differences thus become communication barriers that highlight the need for understanding the differences between one’s own culture and that of another.

Even something as “simple” as an appointment time can be misinterpreted. For example, Americans value being prompt and adhering to schedule. Other cultures look upon promptness and adhering to schedules differently. Arriving late may be the norm in another culture, and a different meaning may be assigned to arrival time depending on how late one arrives or specific circumstances surrounding the meeting.

Successful cross-cultural communicators reach people and organizations of other cultures using gestures, signs, shapes, colors, sounds, smells, pictures, and other symbols to convey their needs, values, standards, and expectations. Global marketers are aware that international communications can be extremely sensitive and require a great deal of empathy, research, and courtesy. They understand the needs and concerns of their audience using the proper tools. For the best results, they get help if they need to. Mimic their communication secrets and you will match their level of success.

Doing Business Around the World

There is something paradoxical in the fact that by establishing an export market we subject our entire domestic production to the vagaries of that market.ⁱ

—Benjamin Graham, influential economist and professional investor;
May 9, 1894–Sept. 21, 1976

A world tour provides you a taste of business culture for the countries addressed hereafter and should whet your appetite for the additional research needed to manage cultural differences and ensure that you are ready for doing global business, negotiating, and selling products and services in your target world market. Culture is complex. Should you dismiss or minimize its importance in taking product global, the costs can be significant. Invest time to understand your customer and your customer will understand you. In addition to building trust and relationships, verify facts and the authority of your negotiating counterparts to reach agreement. The continental and country profiles that follow generally provide location, key demographic and economic information, and a description of business etiquette and business meeting practices.

Doing Business with North Americans

North America, the third largest continent, includes all of the mainland and related offshore islands that lie between the Arctic Circle and the Tropic of Cancer. Its east-west extent is 5,000 miles covering 9,355,000 square miles. To the north, the continent is bound by the Arctic Ocean, to the east by the North Atlantic Ocean, to the south by the Caribbean Sea, and to the west by the North Pacific Ocean.ⁱⁱ According to the latest data on global gross domestic product (GDP) released by the [World Bank](#) in February 2017, the United States still is the world's biggest economy—by far, and North America, by itself, generates 27.95% of global GDP (United States [24.3%], Canada [2.09%], and Mexico [1.54%]).ⁱⁱⁱ It is no wonder North America attracts the attention of global businesspeople. North America's complexity is worthy of study by foreign businesspeople and natives alike.

North American Languages and Demographics

United States – American culture^{iv} strongly emphasizes individualism; being an entrepreneur; and a task orientation that leads to business behaviors that are challenging for many other cultures, for example, scheduling, punctuality, and one's work being connected to one's identity and self-esteem. In the context of business, Americans develop trust and credibility by suppressing their emotions while being more emotionally expressive with family and friends, principally in the southern United States and within African American and Latino American communities. In relating to others, Americans are relaxed, friendly, even informal, as one's age, position, rank, and gender rarely sways how Americans communicate with others.

Canada – Many international businesspeople doing business in Canada anticipate relating to Canadians in the same way they relate to businesspeople in the United States. Although there may be some similarities, Canadian business and workplace culture are unique.^v As in the United States, Canadians value time and punctuality. Their business meetings usually begin with formal introductions and small talk and progress as the parties become better acquainted. The language used will be either English or French depending on the province you visit as Canada is officially bilingual. You will find that in an English-speaking company, meeting attendees are encouraged to participate, whereas in a French-speaking company located in Quebec, management and senior staff dominate the discussion and decision making. In either case, be prepared with facts and figures to support any proposal you submit for Canadian review and discussion.^{vi}

Mexico – unlike the United States, time is not money; money is for enjoying life! Mexicans work to live! The Mexican work day, depending on the industry and location, is between 9 a.m. and 7 p.m., although breakfast, a productive time for business meetings, may begin at 8:30 a.m. The mid-day meal is normally taken between 2 p.m. and 4 p.m. is a social opportunity, thus, it may not be as productive as early morning meetings are. A light evening meal, another social occasion, may take place between 8 p.m. or 9 p.m. Most business meetings^{vii} tend not to be creative, nor do they follow a strict agenda. Meetings are formal, may take longer than anticipated, but they do usually end with important decisions being made and carried out. It is best to deal with top executives as decisions reached by lower-level managers will be overridden, given the culture's adherence to the role of hierarchy in the business structures of Mexico. This, in turn, requires you to send businesspeople to meetings with senior staff authorized and empowered to conclude business with their Mexican counterparts. To do otherwise would be offensive.^{viii}

Doing Business with South Americans

South America, the fourth largest continent, includes all of the mainland and related offshore islands that lie between the Gulf of Darién in the northwest to the Tierra del Fuego archipelago in the south, encompassing a total area of about 6,878,00 square miles. To the northwest, the continent is bounded by the Caribbean Sea and north; the Atlantic Ocean to the northeast, east, and southeast; and the Pacific Ocean to the west. Drake Passage, south of the Cape Horn, separates South America from Antarctica. Its greatest north-south extent is about 4,700 miles, from Point Gallinas, Colombia, to Cape Horn, while its greatest east-west extent is some 3,300 miles, from Cape Branco, Brazil, to Point Pariñas, Peru.^{ix}

South American Languages and Demographics

South America is linguistically diverse with 37 language families, 448 languages of which over 70 are unclassified. Indigenous languages are used throughout the entire continent spoken by over 11 million people alongside Spanish and Portuguese.^x The subcontinent has a 2017 population estimated at 425,686,686, according to national estimates of its various countries and statistical calculations.^{xi}

Brazil – Brazilians are friendly, free spirited, very risk oriented, and creative. Its culture is diverse and includes influences from Italy, Spain, and Germany and Africans brought over as slaves. This largely Roman Catholic (73%) nation values families that are large and often include extended family members. Family, educational, and socioeconomic backgrounds are important to Brazilians. When meeting people for the first time in Brazil, men will commonly shake

hands. Appearances are important in Brazil, so make sure that you are smartly dressed with suits and ties prevailing for men, and simple dresses or trouser suits for women. Brazil's official language is Portuguese despite 180 indigenous languages. In exchanging business cards, be sure to have them translated into Brazilian Portuguese. In conversing with Brazilians, expect them to be both animated and engaged as personal relationships are important in this culture. Be sure to maintain good eye contact in discussing business. Business meetings will typically be scheduled around two weeks in advance. Keep presentations short and to the point. Brazilian businesspeople may not respond positively to being pressured into making a decision, preferring a more relaxed approach to business. Make any follow-up meetings as personal as you can, either over the telephone or face-to-face.^{xii}

Despite all the talk about emerging economies, the four biggest economies in South America (Brazil [2.39], Argentina [.79%], Venezuela [0.5%], and Colombia [.39%]) produce only about 4% of global GDP. Still, this region presents major opportunities and challenges for improving the quality of life for its population. It is worth the attention of foreign businesspeople and can contribute to the economic growth of your own and their firms.^{xiii}

Doing Business with Asians and Oceania

Asia is the world's largest and most populous of the world's continents. The continent borders Europe and Africa to its west, Oceania to the south, and North America to the east. Its marine borders are bound by the Arctic Ocean to the north, the Pacific Ocean to the east, the Indian Ocean to the south, and the Red Sea to the southwest.^{xiv} Although most of Asia's borders are clearly defined, unclear is the border between Europe and Asia, so the combined landmass is referred to as Eurasia. As a result, some countries have been mistakenly associated with Eastern Europe and at times been associated with Asia.^{xv}

Oceania, a region centered on the thousands of islands of the tropical Pacific Ocean dominated by Australia, the smallest continent, is divided into the subregions of Polynesia (including Hawaii), Melanesia, Micronesia, and Malaysia. The region extends to Sumatra, Bonin Island, the Hawaiian Islands, Rupa Nui Island, and Macquarie Island. Oceania includes the countries of New Zealand, Papua New Guinea.^{xvi}

The World Bank, according to the latest data on global GDP (April 2017) reports economic growth in Asia, in particular China, continues to be robust and the outlook is broadly positive across the continent. The developing economies of East Asia and Association of Southeast Asian Nation (ASEAN) economies, are projected in the near term to expand between 5 and 6% making the continent and the region prime markets for global business.^{xvii}

Asian/Oceania Language and Demographics

Asia's four major languages are **Mandarin, Hindi, Russian, and Arabic**. It is difficult, if not impossible, to identify all the remaining languages of Asia as many Asian countries have more than one native language. For example, there are more than 600 languages spoken in Indonesia, more than 800 languages spoken in India, and more than 100 languages spoken in the Philippines.^{xviii}

Asia comprises a full 30% of the world's land mass with 60% of the world's current population that populate a total of 50 countries. In 2017, the population is estimated at 4,472,378,542 excluding Russia, although there are about 40 million Russians who live in Asia or east of the Ural Mountains.

The two most populous nations within the borders of Asia are China and India. China, leading the world as the most populous country, has a 2017 estimated population of 1,388,232,693 surpassing India's 2017 estimated population of 1,342,512, 706. Each country is projected to have a population of 1.45 billion by 2022. This is not to say other countries in the region do not have large populations. The remaining most populous countries in the region include Indonesia, 255.46 million; Pakistan, 191.78 million; Bangladesh, 158.76 million; Japan, 126.89 million; The Philippines, 102.96 million; Vietnam, 91.81 million; Iran, 78.77 million; and Turkey, 78.21 million.^{xix}

Selected Pacific Basin Countries

The People's Republic of China, the world's most populous country inhabited by nearly 1.4 billion people, stretches across nearly all of the Asian land mass and is south of Mongolia and Siberia, west of the Korean peninsula and Japan, north of Southeast Asia, and east of Central and South Asia bordered by Russia and North Korea, Vietnam, Laos, Myanmar (Burma), India, Bhutan and Nepal, Pakistan and Afghanistan, Tajikistan, Kyrgyzstan, and Kazakhstan.^{xx}

China's main imports are mechanical and electrical products, high-tech goods, crude oil, iron ore, copper, aluminium, and agricultural products.^{xxi}

The most common language and official dialect of China is Mandarin. That said, it is difficult to do business in many parts of China without being supported by a translator. Communicating there can be slow, laborious, and laden with potential for misunderstanding and inaccurate translation. Be patient. As a foreign businessperson, you will likely need to cover the same ground several times and constantly verify your message is delivered accurately. Chinese businessmen have high expectations that you will be well prepared with multiple copies of any proposal. They prefer to establish a strong relationship before reaching agreement, likely requiring several meetings to achieve your business objectives. Appearance is also important so dress to look successful, but not overly so. Because Chinese culture is hierarchical and based on respect

for age and authority, businesspeople in China usually enter the meeting room in hierarchical order. They will assume that the first member of your party walking into the room is the head of the delegation. Negotiations will likely be prolonged beyond any deadline you have established and should exclude political criticism of the government.^{xxii}

Australia – is an island nation located in the Southern Hemisphere near Indonesia, New Zealand, Papua New Guinea, and Vanuatu. The country has the world's 13th largest economy requiring as imports machinery and transport equipment, industrial and electrical machinery, telecommunications, and sound recording. In addition to these imports, the country requires petroleum, manufactured goods, chemicals and related products, food and live animals.^{xxiii}

Australians, though ostensibly casual, are anything but in the context of business. The workday generally begins at 8:30 a.m. and ends at 5:30 p.m. with an hour for the mid-day meal. Australians respect the value of work and expect deadlines and commitments to be honored. It is best to always make meeting appointments and present a business card at the outset. In dressing for business meetings, dress conservatively without ostentation as Australians dress conservatively in business environments. Discussions will be forthright and honest as Australians have no reservations about telling you what they think. If someone introduces himself with his/her first name, you can assume that you can call them by that name unless corrected. If you are unsure how to address someone, sir or madam is always fine. During conversations like meetings and negotiations, speak plainly and expect that what you say will be taken literally. Social contact after hours is usually swift and simple to achieve business objectives. When speaking to others, maintain some distance as Australians are not very comfortable when others invade their private space, especially if it is during a formal business meeting.^{xxiv}

Hong Kong – is a Chinese administrative region of the People's Republic of China located east of the Pearl River on the south coast of China. The region mainly imports mainly machinery and equipment, manufactured goods and articles, chemicals, mineral fuels, and food.^{xxv}

Understanding business, workplace culture, and etiquette are important for doing business in Hong Kong. There is some similarity to Western cultural business practice, but in Hong Kong some business practices are unique. Appropriate fashion for men are suits and ties and pant suits or business skirts for women. In greeting business contacts, it is proper to offer a handshake and a small bow making sure to greet the most senior person first before greeting others in his party. You will recognize the most senior person by the title on his business card. If possible, begin conversations with a phrase in Cantonese to demonstrate your effort and interest in this culture. Despite its apparent global economy, business in Hong Kong is rooted in the Eastern tradition, for example, having lavish business dinners. When in doubt about appropriate behavior in a social situation, take your cues from your host. For business

meetings in Hong Kong, make the appointment as far in advance as possible avoiding any meetings on Christmas, Easter, or around the Chinese New Year. In arranging business meetings or appointments, provide at least 24 hours notice in advance. For added respect, have your business cards printed, one side in English and the other side in Cantonese. Negotiating in Hong Kong, as in China, may take some time and you should avoid pressuring your business partner, who may even be a woman, as large numbers of women hold senior positions in business and banking.^{xxvi}

India – is a republic in South Asia flanked by the Himalayas in the north, the Arabian Sea in the west, the Bay of Bengal in the east, and the Indian Ocean in the south. The country shares land borders with Pakistan, China, Nepal, Bhutan, Bangladesh, and Burma (Myanmar). India has a territorial sea border with Sri Lanka, and with Indonesia in the Nicobar Islands.^{xxvii} India, the largest democracy in the world, has a parliamentary system of government overseeing a population of 1.34 billion inhabitants (2017). Hindi is the Republic's official language with English, the associate official language widely used for business and understood almost everywhere in India. Having gone through two decades of economic reforms, India's economy is rapidly integrating with the world economy. India is heavily dependent on crude oil imports also importing, gold and silver, machinery, electronic goods, pearls, precious and semi-precious stones. India has recently become a substantial Asia exporter of petroleum. The country also exports engineering goods, chemical and pharmaceutical products, gems and jewelry, agricultural and allied products, and textiles and clothing.^{xxviii}

The country is composed of many cultures so understanding the country to ensure your approach to its business community will be challenging, but nevertheless rewarding. Given the diversity of its society (small ethnic and tribal groups) and religions (Hinduism, Jainism, Buddhism, and Sikhism), one must be prepared to know more about the individuals with whom one deals. India is heavily dependent on crude oil imports and imports: gold and silver, machinery, electronic goods and pearls, precious and semi-precious stones.^{xxix} In greeting your Indian counterparts, a handshake is customary and may be substituted by the Namaste, where the palms of one's hands are brought together at chest level with a slight bow of the head, a sign of your understanding of Indian etiquette. Doing business in India demands punctuality and patience. Take tea, should it be offered and don't be too direct in your comments. Above all, check the local calendar as India enjoys countless holidays that change depending on the year. On your arrival in India do not schedule business meetings during one of these festivals. Realize that India is a price competitive market in which government contracts are awarded to the lowest technically compliant bidder. Should you be marketing consumer products, understand consumers often prefer lower prices to quality or durability. Indians only deal favorably with those they know and trust—even at the expense of lucrative deals, so it will take time to establish

a relationship with representatives, distributors, and above all consumers to be profitable in India.^{xxx}

Indonesia, with over 18,000 islands and inhabitants numbering 248,215,193, is the largest archipelago on earth. The country borders Malaysia, Timor-Leste, and Papua New Guinea.^{xxxi} The country's primary imports products include oil and gas, nuclear reactions, boilers, mechanical appliances, iron and steel, organic chemical materials, and vehicles.^{xxxii}

The business culture of Indonesia is very different from the Western style of doing business. Take time to get acquainted with its diverse ethnic, language, and religious groups as the country is a melting pot of cultures even though it is largely an Islamic nation. Business in Indonesia is conducted in either English or Bahasa Indonesian, thus, you will likely need the services of an interpreter. Punctuality is not paramount in Indonesia, so exercise patience. Initial introductions in Indonesian business are formal. Handshakes are generally exchanged before and after business meetings, but realize the grip is generally softer than those used in the Western world. Greetings are occasionally accompanied by a slight bow. When Indonesians communicate they are indirect and subdued in their speech. If you are being introduced to several people, it is customary to introduce yourself to the eldest member of the group. Business negotiations can be quite lengthy as Indonesians like to give enough time to carefully consider business proposals and do not like being rushed to reach agreement. Initial meetings generally serve only to make acquaintances, so work to establish trust and solid business relationships. Major industries in the country are petroleum, natural gas, and textiles.^{xxxiii}

Japan – is a string of islands off the east coast of Asia and a country with a long history that has emerged since 1950 into an economic powerhouse that, like the United States, has had its economic ups and downs. Japan's primary imports are: mineral fuels, electrical machinery, machinery, food, manufactured goods, chemicals, and raw materials.^{xxxiv} Prepare yourself for doing business with a society that is hierarchical, relies on group decision making, and respects age and seniority. Thus, it is essential to develop an understanding of Japanese business and social practices to ensure a firm's success in Japan. It is best not to assume that Western social and business norms apply there. Study Japanese business practices and dress conservatively without ostentation as your business counterparts observe formality.

To build business relationships, one should emphasize trust, confidence, loyalty, and commitment for the long term. Decisions are not hurried. Business travelers to Japan should bring a large supply of bilingual printed business cards reflecting their title. Japanese executives deal with others on a last name basis. Initial business and social contacts are characterized by politeness and formality. Business travelers visiting a Japanese firm for the first time may require an interpreter or bilingual assistant and their counterparts expect that assistance. Although the cost of hiring an interpreter can be very

high, bringing along an interpreter demonstrates that a visiting firm is serious about seeking to market its products and services in Japan.^{xxxv}

Malaysia – located in Southeast Asia is a country formerly under the British Commonwealth. When established in 1963, it was comprised of the territories of Malaya, the island of Singapore, and colonies in northern Borneo. Malaysia has a fast-paced lifestyle, an emerging infrastructure, a highly qualified workforce and an emerging economy. Its society is multiracial with four major ethnic groups: Chinese, Malays, Indians, and others working alongside each other so the previously described business practices in those countries apply to doing business there. Malaysia's main imports are electrical and electronic products, chemicals, petroleum products and machinery, appliances and parts.^{xxxvi} In major cities like Kuala Lumpur, Penang, and Singapore, most business is conducted in English, although there are three other official languages—Malay, Mandarin, and Tamil.^{xxxvii} Its economy is highly developed and trade oriented, but don't let that stance lull you into complacency.

Malaysians are highly polite and a lazy Western attitude is not considered to be acceptable there.^{xxxviii} In dressing for business, men should wear a suit with dark pants, a long-sleeved shirt, and a tie. Be punctual for business meetings starting discussion with small talk to build rapport. Make sure to treat persons of senior rank with great respect. As a general rule, address persons by their title and surname. Have your card translated into Malay, or if you are meeting Chinese partners, have it translated into Chinese as well. Beware of the prospect of corruption and comply with the U.S. Foreign Corrupt Practices Act.^{xxxix}

Singapore – a city-state at the southern tip of the Malay Peninsula, declared its independence from Malaysia in 1963 to become the Republic of Singapore, renowned as the second densest city-states in the world with a 2016 population of 5.69 million and a global financial center built on trade and investment. The city-state thrives on its cultural and multiethnic diversity that includes populations from China, Malay, Indians, and Eurasia. English is the primary language used in business and educational institutions. The city-state is religiously diverse as well with Buddhism, Christianity, Islam, Taoism, and Hinduism. Singapore's well-developed telecommunication and airport infrastructure meets the needs of business and industry in the region and beyond. Singapore's biggest import product is machinery—equipment with electronic—accounting for a significant percentage. The country also imports crude oil, miscellaneous manufactures, and chemical products.^{xl}

The work day begins at 8:30 a.m., ending at 5:30 p.m. Monday to Friday. In greeting your business counterpart(s), shake hands, follow with a slight bow, and exchange business cards with one's name and title. In making introductions, be sure to use the addressee's title and surname. Do not be surprised that the women of Singapore hold positions of authority and adhere to the regimen of Islam, for example, refraining from products of pigskin and alcohol. In Singapore,

as elsewhere, punctuality or notifying others of any expected delay is key. Men should be prepared to do business by dressing appropriately with a white shirt, standard tie, and trousers; and women with a blouse with sleeves and a formal skirt or trouser suit. Business discussion should be respectful, but pointed and direct. If your day is consumed with business, your dinner and meals will be a time to socialize and build relationships, even after the evening meal.^{xli}

Pakistan – officially the Islamic Republic of Pakistan, is located at the crossroads of the Middle East, Central Asia, and South Asia. It has a parliamentary system of government based on British law adapted to Islam, the one religion practiced by almost all Pakistanis with Hinduism and Christianity practiced in the minority. Its economy is semi-industrialized encompassing textiles (garments, cloth, and yarn), rice, chemicals, food processing, agriculture, and others leading to plenty of opportunity to advance this country's level of prosperity. Mineral fuels, manufactured goods, beverages and tobacco, animal and vegetal oils and fats, crude materials except fuel, chemicals, machinery, food and live animals constitute Pakistan's imports.^{xlii} Its major trading partners are the United States, the United Arab Emirates, the United Kingdom, Germany, and Hong Kong.^{xliii}

Although the major language is Urdu, English is the official language for conducting business in Pakistan. The services of an interpreter may be required to ensure communication is clear. The majority of surnames you will address originate from Arabic, Turkey, and Persian family names. Greetings are expressed between members of the same gender followed by a firm handshake using the right hand. Should a stronger relationship be developed, your greeting will include a hug. It is not wise to plan a business trip during the month of Ramadan in this Islamic country. With reduced office working hours in government and the private sector, it is difficult to get appointments. Plan business meetings well ahead of time, providing titles, positions, and responsibilities to enable your counterparts to be well prepared also.^{xliv}

The Philippines – is an island archipelago nation of Southeast Asia in the Western Pacific Ocean. The country, officially known as The Republic of the Philippines, approximately composed of about 7,100 islands grouped into three major island groups: Luzon, Visayas, and Mindanao. The Philippines has a population of about 100 million people expected to increase to 148 million by 2050 with about 10 major ethnolinguistic groups. Although the country is officially secular, it is largely Christian, predominantly Roman Catholic. The culture reflects both Spanish and American influences. Its inhabitants include a mix of Chinese, American, Spaniard, Indian, Japanese, Arab, and Koreans. While its official language is Filipino with over 300 dialects, English is used professionally in business and academic communities. The cost of living in the Philippines is inexpensive and its currency is the Philippine Peso. Predominant industries in the Philippines are mining and quarrying, manufacturing, construction, and electricity, gas, and water supply. Recently business process outsourcing (BPO) to third-party service providers has

taken off.^{xlv} The Philippines' major imports are electronic products, mineral fuels, and transport equipment.

Subordinate employees in the Philippine culture generally accept the hierarchy of prominent multinational companies operating there. Showing a genuine interest in your business partner, colleagues, or employees will go a long way toward building relationships in the Philippines. Business meetings are conducted over lunch and dinner meetings. Although punctuality is not overly stressed in this culture, make a point of arriving on time regardless even if your business counterparts do not.^{xlvi}

Taiwan – located in the South China Sea, is officially known as the Republic of China. Taiwan boasts a highly successful value-added economy, heavily dependent on foreign trade for its survival. The country is strategically located to take advantage of Northeast Asia, China, and the nation-members of the Association of Southeast Nations (ASEAN). The country supports a well-educated population of some 23 million with approximately 11 million in its civilian workforce. Taiwan imports mostly parts of electronic products, mineral products, machinery, chemicals and base metals, given its lack of natural resources.^{xlvii}

The Taiwanese maintain a strong work ethic putting in a 40-hour work with the expectation that their foreign counterparts will do the same. Given that ethic, you and your party should be well prepared to bargain and compromise before negotiating any business venture in Taiwan. Arriving on time for a meeting is important, as punctuality is highly valued there. Personal relationships or “Guanshi” are the keys to doing business in Taiwan. Greet your business counterparts with a handshake and on departing, a bow. It is best not to display affection in this culture and it is best to be reserved in your behavior. The Taiwanese prefer to do business with people they know, are friendly with, and trust. The official languages are Mandarin and Taiwanese; however, for international business in Taipei, English is spoken. Business dress is stylish, yet conservative for any meeting.^{xlviii} In Taiwan, titles are very important so it is best to address others using their professional title followed by the surname. Be sure to have one side of your business card translated into Mandarin and to present your business card with two hands with the Mandarin side facing the recipient. Avoid hard selling, pressure tactics, and any sort of conflict or confrontation.

Thailand – strategically located in the center of mainland Southeast Asia, serves as a gateway to Asia, the largest growing economic market serving China, India, and the nations of Association of Southeast Asian Nations (ASEAN). Since the 1960s increasing numbers of its population have moved away from agriculture to Bangkok, its capital, and to other cities.^{xlix} Thailand, a foreigner friendly country that supports a population of 67 million, is characterized by steady, strong economic growth and a skilled, cost-effective workforce that attracts foreign investment. This country boasts of its

world-class infrastructure consisting of seven international airports, mass transit, broadband access, sea and river ports that include containers and tank farms. Given its investment in a high-quality, business-based infrastructure, the government has targeted growth in agriculture and agro-industry, alternative energy, automotive, electronics and ICT, fashion, and value-added services including entertainment, health care, and tourism.ⁱ The country imports mainly raw materials and intermediate goods, fuel, parts of electronic appliances, materials of base metal, and chemicals, machinery, computer, and mechanical equipment in addition to consumer goods.ⁱⁱ

English is widely used in Thailand for commercial and many official purposes. While Thai customs may seem very conservative to some Westerners, Thai people are generally very relaxed and easygoing, rarely taking offense if a foreigner fails to follow Thai etiquette. Punctuality for business meetings is important to the Thai, although meetings may not start as scheduled. In addressing others, use their professional title, although the use of first names is quite common. It is advisable to have one side of your business card translated into Thai; be sure to present and receive business cards with the right hand only. Business decisions come from the top down and can take a while, so patience is a must.ⁱⁱⁱ Conservative colored suits with shirts and ties are the recommended dress for men; skirts and blouses are appropriate for women. Wear shoes that are easy to slip on and off, if possible.

The Socialist Republic of **Vietnam** – is the easternmost nation on the Indochinese peninsula with a population of some 90 million inhabitants. The country has long been dominated and, as a result, adapted to the ideas and institutions of its oppressors. Political and economic reforms, stemming from a constitution and civil law code, launched in 1986 to recover from war over the last 35 years, are transforming the country and its economy to produce more competitive, export-driven industries that are more inviting to foreign companies that want to do business there. Its workforce is literate and competitive as demonstrated by considerable Korean investment in Vietnam.^{lii} The official language is Vietnamese, but increasingly English is a favored second language with some usage of French, Chinese, and Khmer languages. Major religious influences are Buddhist 9.3%, Catholic 6.7%, Hoa Hao 1.5%, Cao Dai 1.1%, Protestant 0.5%, Muslim 0.1%, and none 80.8%.^{liv} Vietnam imports are machinery, transports and equipment, and manufactured goods (24%, chemicals, fuels, food and live animals, and crude materials except fuels).

While business is done mostly on the basis of referrals, cold calling and direct contacts are producing results. Appropriate dress for men includes conservative colored suits, shirts, and ties; for women conservative skirts, pants, suits, and blouses are proper. In greeting and departing business counterparts, two-handed handshakes, in some cases a simple nod, are common. It is always appropriate to address your business counterpart by his title, for example, Chairman Triet, Director Dung, or Manager so and so.^{lv}

As elsewhere in Asia, seniority is very important to the Vietnamese, especially if you are dealing with a state-owned or government body. In presenting a business card or a brochure, make sure you start with the most senior person and downward. When giving out a business card or receiving one, ensure that you stretch your arms out with both hands to receive the card. You must build relationships in Vietnam and avoid hard selling tactics or any sort of conflict or confrontation. Patience is also required as decisions are reached by consensus.

China, India, Indonesia, South Korea, and Japan are driving economic growth across Asia producing just over a third (33.84%) of global gross domestic product and their share is expected to reach 50 % by 2050.^{lvi} Asia's GDP current and projected economic growth highlights the importance of the region and its importance to growing your firm.

Doing Business with Europeans

Of the earth's seven continents, Europe, a peninsula of Eurasia or a peninsula of peninsulas and islands, is the second smallest continent. Its main peninsulas are the Iberian, Italian, and Balkan peninsulas, located in Southern Europe, and the Scandinavian and Jutland, located in Northern Europe. The continent's four major regions running from north to south: Western Uplands, North European Plain, Central Uplands, and Alpine Mountains.^{lvii} Europe's boundaries are relatively clear with difficulty defining them being in the east between continental Europe and continental Asia.^{lviii} As a single country, the United States is the biggest economy in the world, but you could easily argue the 28 member countries of the European Union (EU) make for one big economy generating a gross domestic product worth of 16,397.98 billion U.S. dollars in 2016, equivalent to 26.45 % of the world^{lix} The EU consumer is also on top.

European Languages and Demographics

Today, the European Union recognizes 24 official languages in addition to those spoken by regional, minority, and migrant populations.^{lx} As far back as 1958, European Community legislation recognized and specified German, French, Italian, and Dutch as its official and working languages. EU member states have always had fewer official languages, as some share common languages, as in Belgium where the official languages are Dutch, French, and German. There have always been indigenous regional, minority languages spoken in the European Union and languages that migrant populations have introduced. The European Council has authorized some regional languages, such as Catalan in Spain and Welsh in Britain. These two have been recognized as co-official languages, while many European languages, such as Old Prussian, Cornish, and two Jewish languages, have become extinct while others are considered endangered.^{lxi}

As of 2017, the population of Europe is estimated at 739 million,^{lxii} approximately 10% (9.8%) of the world's population, and it is projected to decline. Indigenous ethnic and immigrant groups from black Europeans to Asian Europeans populate the continent. The evolution of religion in Europe spans approximately 10,000 years from the Ancient Greek, Roman, and Nordic faiths to the spread of Christianity, Judaism, and Islam. Each of these faiths has influenced art, culture, philosophy, and law on the continent. Today most Europeans profess Christianity; the second largest religion practiced there is Islam; followed by Judaism, agnosticism, and atheism.^{lxiii}

Western Europe

United Kingdom, located in the northwest coast of mainland Europe, is comprised of four distinct regions that include England, Wales, Scotland, and Northern Ireland. Be sure to acknowledge and respect each of these regions for success in doing business there. The United Kingdom's two official languages are English and Welsh; however, 300 languages are spoken there. The United Kingdom is one of the world's major economies with a marketplace of 65 million that includes a highly educated labor market with a high standard of living. It is an attractive destination for foreign direct investment offering access to the European Union's 500 million-plus consumers. In addition, the United Kingdom offers 24 enterprise zones providing incentives designed to support new and expanding businesses.^{lxiv} The United Kingdom mainly imports electrical machinery, mechanical machinery, cars, other miscellaneous manufactures, medicinal and pharmaceutical products, road vehicles other than cars, clothing, and refined oil.^{lxv}

Although the culture of the United Kingdom is generally open, people in the United Kingdom value their privacy and personal space. Take time to develop business relationships while respecting these values and avoiding behaviors like slapping, asking personal questions, and hugging strangers. It is also best to avoid discussing topics like the relationship between the United Kingdom and the European Union, religion and the historical conflict between England and Northern Ireland, among others. When arranging business meetings with senior executives, plan ahead and provide advance information about the company you represent and the topics to be discussed. Punctuality is valued in the United Kingdom so be sure to arrive at the appointment time. You should also learn about the company you are meeting so you can understand its business culture, interests, and opportunities for synergy.^{lxvi}

France^{lxvii} – bounded by the Atlantic Ocean and the Mediterranean Sea, the Alps, and Pyrenees, is one of the world's leading industrial powers with a population of 65 million inhabitants that includes 4 million foreign residents and immigrants. Although the French economy has slowed dropping employment

to a rate of 9.6% in 2017, it has nevertheless maintained demand based on strong public policy and its focus on newly developing countries. The service sector accounts for 75.7% of total employment compared with agriculture at 2.8%. The country's industrial sector has suffered from increased competition from the Far East.^{lxxviii} France mainly imports computers, electronics, industrial and agricultural machinery, food, chemicals excluding perfumes, textiles, clothing, metal products, aircraft, motor vehicles, natural hydrocarbons, mining, and pharmaceuticals.^{lxxix}

Achieving your business objectives in France starts with appointments that should be scheduled and confirmed before their scheduled day. Be on time as the French appreciate punctuality. In addressing your business counterparts for the first time, make sure that you use their family name, preceded by 'Monsieur' for gentlemen or 'Madame' for ladies. Build relationships by learning more about the French language and culture. Many French speak and understand English, but prefer not to use it. An interpreter will probably not be necessary, but check ahead of time. Use French only for greetings, toasts, and occasional phrases unless your French is perfect.

Spain,^{lxxx} located in extreme Southwestern Europe dominates the Iberian Peninsula shared with its smaller neighbor, Portugal. The country, inhabited by a population of approximately 45 million, has 17 autonomous regions, each with its own unique character and distinctive atmosphere. The country's economy has slowed accounting for the rise in unemployment to 18.75% in the first quarter of 2017.^{lxxxi} Manufacturing is the most important sector accounting for 82% of total production with the largest segments in food products, fabricated metal products, except machinery and equipment (9%); motor vehicles, trailers and semi-trailers; chemicals/ chemical products; other non-metallic mineral products, rubber and plastic products; machinery and equipment, basic metals, and beverages.^{lxxxii} The country's main imports are equipment goods (22% of total imports); chemicals (16%); autos (14%); consumption goods (13%); food, beverages, tobacco (12%), and energy (11%).^{lxxxiii}

The style of life in Spain is more relaxed than that in its West European neighbors. In business relationships, communication is usually formal. In Spain, as elsewhere, building relationships is important. It is reasonable to expect that Spanish executives will speak English and may even speak other languages, such as French and German. Trust and personal relationships are the keys to the success of doing business in Spain. It is advisable to use the courtesy titles 'señor' for a man, 'señora' for a married woman followed by the family surname. Negotiations will be detailed so it is important to prepare thoroughly while respecting the culture, value, and traditions of your counterpart. Professional and academic titles are not normally used when addressing Spanish executives.^{lxxxiv}

Central Europe

The Republic of **Bulgaria** – is situated in Southeastern Europe on the Balkan Peninsula north of Greece and Turkey, with a long border to the north along the Danube River with Romania. To the west, it shares a border with Serbia and Macedonia and it borders the Black Sea to the east. With a population of more than 7 million people, the country has a small, open economy strategically located to serve Southeastern Europe. Bulgaria mainly imports fuels, machinery and transport equipment, metals, raw materials.^{boxv} Its infrastructure includes rail and highways, commercial ports on the Danube, and three major airports. The country's 2016 workforce numbers 3.310 million^{boxvi} well-educated men and women that have completed secondary, technical, or vocational education with others that have strong backgrounds in engineering, medicine, economics, and the sciences. This talent and Bulgaria's inexpensive cost of labor offer foreign investment potential for companies interested in operating in this region.

Bulgarians observe punctuality in conducting business. Should you find yourself delayed, bring that to the attention of your Bulgarian host. How you dress for meetings likely depends on the industry and work environment in which it operates. Generally, it is best to dress conservatively. Business meetings take on an air of formality in Bulgaria and may be followed by meals. In greeting your counterpart, shake hands, exchange business cards, and greet the most senior person and then others using their family name. You will find your discussions to be candid. Take your time and be patient. If you find government permits may be required, realize bribery and corruption are still issues you will have to deal with. If confronted, observe the requirements of the U.S. Foreign Corrupt Practices Act and avoid paying "taxes" to government officials.^{boxvii}

The Federal Republic of **Germany**, located in Northern Central Europe, covers an area of 356,750 km² bordered by Poland, the Czech Republic, Austria, Switzerland, France, Luxembourg, Belgium, the Netherlands, and Denmark. With a population of more than 80 million people, it has the largest European economy and is a founding member of the European Union. German is the official and most spoken language in both Germany and Austria. The country's key imports are machinery and equipment, electrical products, vehicles, and mineral fuels. Other imports include pharmaceutical products, plastics, and optical, and photographic products.^{boxviii} Its capital is Berlin. The main business centers are Hamburg, North-Rhine Westphalia, Frankfurt, Stuttgart, and Munich, each with its own international airport connected by roads and railways. The German workforce is well qualified, motivated, and conscientious.^{boxix}

German culture prizes forward thinking and thorough planning, frowning on sudden, unplanned changes in business transactions. Germans manage time carefully respecting calendars, schedules, and agendas. Personal appearance is important to Germans regardless of their destination or position they hold. Meetings are taken seriously in Germany and discussions at these meetings may be detailed. In German business dealings, it is important to provide solid facts and examples supporting proposals, as Germans are competitive, ambitious negotiators. Make sure any printed material is available in both English and German, and submit printed material in both English and German. At business meetings always prepare and distribute minutes, information, etc., within 24 hours of your meeting.^{lxxx}

Poland – a parliamentary republic with the sixth largest economy in the European Union, is situated in North Central Europe bordered by the Carpathian Mountains in the south and the Oder and Neisse rivers in the west next to Belarus, Czech Republic, Germany, Lithuania, Russia, Slovakia, and Ukraine. Factors making it favorable for investment include its 38.5 million inhabitants and labor force of 17.7 million, low labor costs, availability of educated staff, and the country's political stability.^{lxxxi} The government, with largely sound macroeconomic policies, has invested in infrastructure, education, and plans for other expansionary policies to spur long-term growth of 2.3%, progressive by EU standards. Since 2015, however, the government's spending on social welfare programs has prompted a decrease in economic growth projections in the short term. GDP is projected to pick up in 2017 to 3.3% and stabilize around 3.2% over the medium term, driven by robust private consumption, a strong labor market, and an industrial structure dominated by low- and medium-tech manufacturing.^{lxxxii} Promising import markets to Poland include machinery and transport equipment, intermediate manufactured goods, chemicals, minerals, fuels and lubricants for industrial retooling and for manufacturing inputs.^{lxxxiii}

Although punctuality is valued in Poland, senior executives may arrive late for a business meeting to demonstrate the importance of their business status. Dress conservatively—dark suit, jacket, and tie for men and for women a suits with either slacks or a skirt. Greeting men should include a firm handshake and direct eye contact; wait for women to extend their hand for a kiss as a sign of respect. Use professional titles in addressing your business counterpart. Initial meetings will likely be short, but as your relationship deepens discussions will be more detailed and may likely include dining at a local restaurant. Be prepared to support any proposal with actionable facts. Since Polish business structures are hierarchical, ensure you meet with a manager authorized to make a decision.^{lxxxiv}

Northern Europe

The Kingdom of **Denmark**—in Northern Europe is a constitutional monarchy that consists of the Jutland Peninsula and in excess of 400 islands in the North Sea north of Germany. Its 5.7 million inhabitants with a labor force of 2.96 million reside mostly in urban areas. Given limited natural resources, Denmark depends on foreign trade for around 30% of its gross national product. The Danish economy, supported by a well-developed infrastructure, is one of Europe's strongest with a surplus state budget, stable currency, low interest rates, and low inflation. The country can be further characterized as being politically and economically stable with a well-educated, highly productive workforce numbering 2.96 million.^{lxxxv} In 2016, Denmark's key imports consisted of machinery, miscellaneous manufactured goods, live animals, food, beverages, tobacco, chemicals, and transport equipment.^{lxxxvi} Although the official language is Danish, English is spoken in many of the larger firms.

In business relationships, contracts may be made orally; however, a written contract is preferable. In business, Danes take punctuality for business meetings very seriously and expect that you will do likewise. Dress conservatively and polished, but don't be shocked by occasional informality in business meetings. Be sure to schedule meetings well in advance. Handshakes are the accepted form of greeting; however, be sure to provide adequate personal space. Come well prepared to negotiate as the Danes are meticulous in analyzing information and proposals. Be factual and well organized in making any presentation. It is normal to discuss subjects thoroughly in order to reach an agreement. In individual meetings, a record should be kept of topics discussed. Ensure you acted on dated action items by the agreed-upon deadlines.^{lxxxvii}

A parliamentary republic located in Northern Europe, **Finland** borders the Baltic Sea, the Gulf of Bothnia, and the Gulf of Finland and the countries of Norway, Sweden, and Russia. In 2017 the country's highly educated inhabitants number 5.5 million, two-thirds of which reside in urban centers. Its capital and largest city is Helsinki; spoken languages are Finnish, Swedish, and Sami with English as the country's unofficial second language. Finland welcomes foreign direct investment and has a business friendly, free-market economy with a developed infrastructure, highly industrialized manufacturing sector, and a skilled, cost-competitive workforce.^{lxxxviii} Employers' unions and worker trade unions negotiate the terms of employment in collective bargaining agreements. Finland's major import requirements are food stuffs, petroleum and petroleum products, chemicals, transport equipment, iron and steel, machinery, textile yarn, fabrics, and grains.^{lxxxix} Finnish exports include telecommunications equipment; passenger cars; and forestry products, such as paper and paperboard.^{xc}

The Finns are generally reserved in their behavior so respect their need for privacy and attempt to optimize the use of their time strictly adhering to

schedules; thus be on time for any business meeting you arrange. Business attire is conservative, so dress accordingly. Business meetings are scheduled by e-mail, by formal notice for important occasions, and may require a detailed agenda. When greeting your business counterparts, shake hands briefly, but firmly. Only on the most formal occasions is a full bow of respect expected. Business discussion is often direct and factual. Verbal commitments are not taken lightly and are considered binding, even more so when followed by a handshake.^{xcii}

Sweden is a constitutional monarchy located on the Scandinavian Peninsula in Northern Europe bordered by the Baltic Sea, the Gulf of Bothnia, the Kattegat, Skagerrak, and Öresund straits, by Norway in the west and the north, and Finland in the east. The Swedish population numbers 9.9 million people (in 2017) largely residing in the southern part of the country; the capital and largest city is Stockholm; spoken language is Swedish with English spoken widely.^{xciii} The Swedish parliament has legislative power and the government implements its decisions drawing up proposals for new laws and amendments.^{xciii} Sweden's import requirements include machinery, petroleum and petroleum products, chemicals, motor vehicles, iron, and steel; foodstuffs and clothing. Sweden has an export-oriented economy based largely on timber, hydropower, iron ore, telecommunications, automobiles, and pharmaceuticals.^{xciv}

Punctuality is important to the Swedes in both business and social commitments, so ensure you arrive in sufficient time or provide your business counterpart advance notice of any delays. Although casual dress is acceptable in Sweden, conservative, fashionable dress is called for in business meetings, even something more upscale for evening engagements. Business meetings should be preceded with submission of an agenda that is adhered to. For a meeting, introduce yourself and members of your party, shake hands briefly with a firm grip and direct eye contact, both on arrival and at the meeting's end. In face-to-face meetings, the Swedes are friendly and communicate openly in discussions; however, be well prepared when negotiating to provide lots of information for review and study. Also, realize any verbal commitments you extend must be backed by action.^{xcv} Meeting minutes documenting required actions and deadlines should be prepared and circulated afterward.

Southeastern Europe

Italy, a Mediterranean peninsula country of South Central Europe, is bordered by the Adriatic Sea on the east coast, Mediterranean coast on the west, and the Ionian Sea to the south. Its northern borders are the countries of France, Switzerland, Austria, and Slovenia. Italy is a democratic republic divided into regions, provinces, and municipalities inhabited by approximately 60 million people. It operates on a system of civil law. Its economy is primarily based on the transformation of raw materials into finished products to satisfy domestic and foreign demand,^{xcvi} specifically machinery and equipment, metals

and metal products, textiles and clothing, food, beverages, and tobacco.^{xcvii} Services represent about 75% of GDP and include commerce, transportation, communications, property rental, banking, and insurance. Manufacturing represents 24% of GDP and includes construction, textiles and apparel, chemicals, pharmaceuticals, non-metal minerals, and transportation vehicles with the remaining percentage in agriculture. The country's level of economic development varies from region to region with high industrialization, good infrastructure, and a well-trained workforce in the north. The south is less blessed in its development. Its economy depends on large private companies, small business, and the public sector for its advancement. Italy's imports are mostly fuel; metals and metal products; chemicals; transportation equipment; food, beverages, tobacco; textiles and clothing.^{xcviii}

In face-to-face communications, Italians tend to gesture to emphasize their speech and maintain eye contact to demonstrate interest. English is the most used foreign language in addition to French and German. Usually, the first contact with an Italian business partner should be formal with written forms of communication preferred for a first approach. Dressing formally for your meetings will lend an air of importance to your business project. Establishing trust is equally important. Since business meetings will be more analysis oriented than decision based, be patient to enable your Italian partner to carefully evaluate both project risks and advantages.^{xcix}

Occupying the southern end of the Balkan Peninsula, **Greece** and its many islands are bordered to the north by Bulgaria and the Former Yugoslav Republic of Macedonia, to the northwest by Albania, to the northeast by Turkey. Its maritime borders are to the west by the Ionian Sea; to the south by the Mediterranean Sea, and to the east by the Aegean Sea.^c The country's official language is Greek, while many young Greeks have widely adopted English as a second language; however, ask if an interpreter will be needed. The older generation speaks French and other popular languages include Spanish, Italian, and Chinese. Greece's 2017 population is on the order of 10.9 million of which approximately 4 million constitute its workforce. It is well known that the Greek economy has encountered financial difficulty due to its public sector debt and trade deficit.^{ci} Although these issues have affected employment since 2016, Greece's economy is growing. Its labor market is another matter with unemployment in February 2017 at 23%, particularly high among young people at 48%.^{cii} Greece's main economic sectors are agriculture, construction, tourism, and shipping primarily located in the major cities of Athens, Piraeus, and Thessaloniki, where most of the country's population resides. Services represents a growing sector of the Greek economy with the largest sectors being shipping and transportation, banking, insurance, tourism, trade; health care, education, communications, and professional services are currently the largest sectors. Greece's main imports are mineral fuels, machinery, transport equipment, and chemicals. Others include food, live animals, manufactured goods, and miscellaneous products.^{ciii}

Interpersonal relationships and family ties are of major importance in decisions. Family ties and friendships are deep and carry obligations. Punctuality is not a business characteristic of this culture, but ensure that you arrive as promised. Greetings can take many forms: a handshake, an embrace, or a kiss can all be encountered at first meetings or among friends and acquaintances but should include formal titles in your initial contact. They prefer face-to-face contacts over other means. Greeks are excellent negotiators, but to do business, one must be patient. Business is conducted by all modern means, but traditionally is often done over a cup of coffee or a working lunch or dinner in a restaurant. In negotiations, the most senior person will tend to dominate the discussion and the negotiation process.^{civ}

East Europe/Eurasia

The Russian Federation or **Russia** stretches over Eastern Europe and Northern Asia. It is a federal, semi-presidential republic with a republic form of government that borders 14 countries including Norway, Finland, Estonia, Latvia, Lithuania, Poland, Belarus, Ukraine, Georgia, Azerbaijan, Kazakhstan, China, Mongolia, and North Korea. Russia also shares maritime borders with Japan by the Sea of Okhotsk, and the United States by the Bering Strait. Seventy-four percent of its 143 million inhabitants live in urban areas, a much greater percentage than the rural population in cities such as Moscow, Saint Petersburg, Novosibirsk, Nizhniy Novgorod, Yekaterinburg, Samara, Omsk, Kazan, Chelyabinsk, Rostov-on-Don, Ufa, Volgograd, Krasnoyarsk, Perm, and Voronez. Russia's workforce, about 63% of the total population, is not highly paid, but well educated and qualified. Approximately 54% of the population works in trade and domestic service industries, manufacturing, and agriculture. Its official language is Russian and foreign languages are English and German.^{cv} Russia's main imports are machinery, equipment and transport, chemical products, foodstuffs, and agricultural products.^{cvi}

In general, it can be said that Russian businesspeople attempt to avoid and evade complying with the country's laws and regulations. In addition, whether or not the terms of business contracts are enforced and taxes are paid depends on close personal and political relationships and influence. Despite these concerns about doing business in Russia, Russia nevertheless has been identified as a high-growth, potential market, but doing business there must be done cautiously. In greeting business partners, a handshake on arrival or leaving is always appropriate and even better when your party uses at least a few phrases in Russian. What counts is the effort, even if your Russian is imperfect. Your team should dress smartly, but conservatively, wearing dark-colored clothing to enhance the team's credibility. A business meeting may be convened more to obtain information than to debate the merits of a business proposal. Be patient and provide your business partners the opportunity

to digest and confirm their understanding of your message as their level of English proficiency may be poor; if left unassisted. Should you be invited to dine, the event could lead to developing better relationships or a very detailed negotiation to finalize an agreement.^{cvi}

The Republic of **Turkey**, a republican parliamentary democracy, is located in the region of Anatolia, lying partly in Europe and partly in Asia, sharing borders with Bulgaria, Greece, Georgia, Armenia, Iran, Azerbaijan, Iraq, and Syria. Based on the latest United Nations estimates, the population of Turkey is 80,426,601. This population practices the Muslim religion, mostly Sunni, and the country's secular state guarantees freedom of work for non-Muslims. Turkish is the official language, but English is widely understood in the business community and tourist areas. Turkey normally has a booming economy with sustainable economic growth that slowed from 6.1% in 2015 to 2.1% in 2016, and an estimated 2.7% in 2017 as a result of a failed coup attempt that has lowered consumer and business confidence and tourism revenues. Despite these issues, Turkey is a first-class emerging market with state-of-the-art management, information technology, and marketing techniques. Major sectors that have attracted foreign capital include services such as those in the finance, telecommunications, and retail industries. Its key imports include machinery, chemicals, semi-finished goods, fuels, and transport equipment.^{cvi}

When dealing with Turkish senior managers in most companies, use an interpreter as your business partner may not have shown an eagerness to learn a foreign language. To do business in Turkey you have to build on personal relationships and this may entail making several trips and completing smaller value transactions. It is best to approach first by phone and e-mail in the early stages, and then follow with direct communications. The Turks are rather experienced in working with foreign businesses. Foreign managers consider Turks flexible and practical. Turkish people are very traditional and formal when doing business. Therefore, scheduling appointments in advance is important. In initial business meetings, let your Turkish counterpart lead the discussion. Negotiations may take longer than usual as Turkish businesspeople do not like to be pressured or given deadlines. Any attempt to hurry the process will only produce negative results.^{cix}

This sampling of European communities and their business cultures may help businesspeople bridge the gap between their own culture and their foreign target culture, while enabling them to participate in the transformation that Europe is undergoing now. It is a start down the road, though a much better understanding will be needed to interface with these European communities. Trade and travel will assist in that transformation along with European Union initiatives that promote free enterprise.

Doing Business with Middle Easterners

The Middle East^{cx} is the region of lands situated chiefly in Western Asia, parts of North Africa and Southeastern Europe around the southern and eastern shores of the Mediterranean Sea extending from Morocco to the Arabian Peninsula. Its western border is defined by the Mediterranean Sea where Israel, Lebanon, and Syria lie opposite Greece and Italy in Europe. A common definition of the countries of the Middle East includes the states or territories of Cyprus, Syria, Lebanon, Iraq, Iran, Palestine, Israel, Palestine (the West Bank and the Gaza Strip), Jordan, Egypt, Sudan, Libya, Saudi Arabia, Kuwait, Yemen, Oman, Bahrain, Qatar, and the United Arab Emirates.

Economic growth in the Middle East is set to accelerate through 2018 following the bottoming out of oil prices in 2016.^{cx} For oil-exporting economies like Saudi Arabia, the recovery will be slow. Key risks to the outlook are a weaker-than-expected rise in oil prices and Middle East conflict-related spillovers. Challenges include diversifying away from oil; developing more dynamic private sectors; and harnessing the potential benefits of demographics. There is a world of opportunity for foreign businesspeople eager and willing to bring much needed economic diversification there.

Middle East Languages and Demographics

Languages commonly spoken in the Middle East can be categorized into four groups: Arabic, Arabic (Afro-Asiatic), Hebrew, Persian (Indo-European).^{cxii} Arabic is the most widely spoken language being official in Algeria, Comoros, Djibouti, Iraq, Israel, Jordan, Kuwait, Libya, Lebanon, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, the United Arab Emirates, and Yemen. English is spoken by the middle and upper classes and French is used in in Algeria, Egypt, Israel, Lebanon, Morocco, Syria, and Tunisia.

Shifts in the demography of the region directly impact critical issues that drive contemporary viewpoints and trends.^{cxiii} The population of the Middle East is expected to continue its rapid growth in the foreseeable future, given some of the highest fertility rates that lead to projections of 1.1 billion by 2050.

Egypt – is a Middle Eastern republic with a socialist-democratic system of government geographically positioned in Northeastern Africa. Its natural boundaries are the Mediterranean Sea, Gulf of Suez, Gulf of Aqaba, and the Red Sea with land boundaries shared with Israel, Libya, Sudan, and the Gaza Strip.^{cxiv} The country's economy has suffered from instability, uncertainty, and stymied economic reforms from recent turmoil. Its government is working to reform its public finances and to enhance its business environment through investment and private-sector job creation.^{cxv} Its economy is split between many nationalized businesses and companies that are either of Islamic or

non-Islamic orientation. With a 2017 population of over 95 million, Egypt's workforce, approximately 22 million, is experienced in the markets of its neighbors and has a good mix of unskilled, semi-skilled, skilled, and highly qualified labor that is an excellent source of productive, inexpensive labor.^{cxvi} Egypt primarily imports mineral and chemical products, agricultural products, livestock, and foodstuff—mainly wheat, maize, and meat, machinery and electrical equipment, and base metals. Other imports include raw hides, wood, paper-making products, textiles and footwear, artificial resins, rubber, vehicles, and aircraft.^{cxvii}

In addressing others, be sure to use their titles as this formality is important both in business and government circles. Before negotiating determine whether the company your business partner represents is either state owned or private; Islamic or secular in its approach. Personal relationships are the key to a successful meeting and good quality relationships can help to cut through the tendency toward an overly bureaucratic approach to doing business. Initial meetings supporting development of a business relationship involve coffee, cake, and lots of small talk. Don't feel your personal space has been invaded when Egyptian businesspeople stand quite closer when communicating with you. Appropriate dress in Egypt is both conservative and modest. Egyptians pride themselves on their sense of hospitality and you can expect to be well looked after during any trip to visit business contacts in the country.^{cxviii}

Saudi Arabia is a monarchy in the Middle East that occupies the north and central Arabian Peninsula. Saudi Arabia is bounded by eight countries—Bahrain, Jordan, Iraq, United Arab Emirates, Kuwait, Qatar, Oman, the Republic of Yemen—and three bodies of water—the Red Sea and the Gulf of Aqaba and the Persian Gulf.^{cxix} Less than 1% of the country's total area is suitable for farming so the country relies heavily on importing mineral and chemical products, agricultural products, livestock, and foodstuff—mainly wheat, maize, and meat), machinery, electrical equipment, base metals). Other imports comprise raw hides, wood, paper-making products, textiles, footwear, artificial resins, rubber, vehicles, and aircraft.^{cxx} The kingdom's economy relies on oil production, which accounts for nearly all its revenue and exports every year. Its economy in the first quarter of 2017 has contracted with the implementation of a December 2016 Organization of the Petroleum Exporting Countries (OPEC) agreement to limit oil production to bolster falling oil prices. Politically a new crown prince, destined to be in line for the throne, is expected to implement a reform agenda. Economists expect a 0.2% growth this before the economy accelerates to 2% growth in 2018.^{xxxi} The country's 2017 population is approximately 32.8 million with over 2 million illegal immigrants. Its 2017 workforce numbers 12.2 million, about 80% of which is not national (2015 est.).^{xxxii}

When doing business in Saudi Arabia, realize the influence of Islam in the culture. In greeting a business partner, it is best to follow the lead of your counterpart. Men shake hands with men; for a businesswoman, wait for a

man to offer his hand. There are several styles of greetings used; it is best to wait for your counterpart to initiate the greeting. A more traditional greeting between men involves grasping each other's right hand, placing the left hand on the other's right shoulder and exchanging kisses on each cheek. When meeting you will likely meet several others in a room enabling these Saudis to get to know you. Your ability to interact will determine their opinion of you. Visitors to Saudi are expected to dress in a conservative, smart fashion, a vital part of building a relationship.^{cxixiii} When negotiating, don't expect discussion topics to follow a sequence according to Western approaches. There will be bargaining and haggling. Remain calm and focused.^{cxixiv}

Doing Business with Africans

Fifty-four individual recognized sovereign states and countries, 9 territories, and 2 de facto independent states are located in the continent of **Africa**, the second largest continent of the planet comprising an area of 11,730,000 square miles measuring 5,000 miles from north to south and about 4,600 miles from east to west. Its estimated population of 1,246,504,865 as of March 2017 accounts for just over 16.6% of the world's human population making it the second most populous continent behind Asia.^{cxixv} Its wildlife and climate terrains are wide ranging. It is also rich in minerals such as gold, uranium, diamonds, platinum, and chromium.^{cxixvi}

According to the World Bank,^{cxixvii} economic growth in Sub-Saharan Africa has decelerated with South Africa and oil exporters accounting for most of the slowdown while agricultural exporters and commodity importers remain generally robust. However, economic growth there is forecast to rebound to 2.9 percent in 2017 and rise above 3.5 percent by 2018, as policies in oil-exporting countries continue to adjust. Over time, global business professionals, in addition to humanitarians and tourists visiting this region, will recognize the growth opportunities there and enable Sub-Saharan countries to realize Africa's bounty for Africans and their own firms.

African Languages and Demographics

There are 1500 different languages spoken in Africa; however, the principle languages include Arabic, French, and English. African languages can be categorized into four groups: Afro-Asiatic spoken in Northern Africa, Central Sahara, and the Horn of Africa; Nilo-Saharan spoken in Central and Eastern Africa; Niger-Congo spoken in Central, Southern, and Eastern Africa; and Khoisan, spoken in the western part of Southern Africa. The following 10 African languages are used to do business on the continent:

- Swahili
- Amharic
- Yoruba
- Oromo
- Hausa
- Igbo
- Zulu
- Shona
- Portuguese
- French

Other languages widely spoken in Africa include Berber, Somali, Fulani, Rundi, Kinyarwanda, Tigrinya, Chichewa, and Spanish.

In most African countries, the population growth is in excess of 2% every year. Forty-one percent of the African population is reported as being under the age of 15. Life expectancy is less than 50 years of age in many nations, averaging the age of 52 across the entire continent. It is nearly impossible to identify all of Africa's demographic components. Over the last 40 years, the continent's population has grown rapidly and can be characterized as being fairly young, with more than half inhabitants under the age of 25 years in some countries.^{cxxviii}

West Africa

The Republic of **Cote d'Ivoire**, also known as the Ivory Coast, occupies approximately 124,500 square miles located in Western Africa bordering the North Atlantic Ocean neighboring Liberia and Ghana. Its geography contains a coastal strip in the south, interior dense forests, and northern grasslands. Its official language is French with over 60 varieties of native languages of which Dioula is the most widely spoken. Executives in large businesses may speak English. Its 23.7 million inhabitants practice Islam, Christianity, and several other native religions. This population lives at or below the national poverty line; however, those living in the country's southern region earn more than their northern counterparts. The country's primary imports are fuel, rice, machinery, and pharmaceuticals. Cote d'Ivoire is the major producer of cocoa and exports crude oil, coffee, palm oil, timber, cotton, fish, and gold.^{cxxix} Despite government attempts to diversify, the country's economy depends on agriculture and is affected by fluctuating commodity prices and weather conditions. Despite these dependencies and recovery from recent political instability, Cote d'Ivoire is regarded as a "Market of the Future" for the opportunity it offers global consumer goods companies with a projected nominal consumer goods growth rate of 9–10% in the coming five years with strong demand for apparel, consumer electronics, and appliances. The country's currency, the CFA franc, is pegged to the euro and it is guaranteed by the French treasury; thus there is no currency risk for Eurozone members. Corruption has been an issue in the past and the country's governance has room for improvement.^{cxxx}

In doing business, realize the people of Cote d'Ivoire are relaxed and polite, greeting each other with inquiries about one's health, family, and work. Men greet each other with a handshake on arrival and departure, while women greet each other with a kiss three times on the cheek, alternating sides. Eye contact, especially staring, is customarily avoided. It is customary to exchange gifts, especially to those respected in the community.^{cxxx} Although the country's Civil Code protects intellectual property rights, its enforcement is lacking, which permits trade in counterfeit goods. Apply for patent protection before doing business in Côte d'Ivoire.^{cxxxii}

West Central Africa

The Federal Republic of **Nigeria** can be found southeast of West Africa sharing land borders with Benin, Cameroon, Chad, and Niger with ocean borders with Equatorial Guinea, Ghana, and São Tomé and Príncipe. Its land mass encompasses some 351,649 square miles. Its primary rivers are the Niger from which the country derives its name; and the Benue, the main tributary of the Niger. The country is inhabited by a population of some 192 million people. Although its official language is English, some 250 additional languages are spoken there. Its capital city is Abuja, while Lagos, the former capital remains the country's primary port and economic hub. The country's legal system mixes English common law, Islamic, and traditional law.^{cxxxiii} Nigeria's economy, both mixed and emergent, includes manufacturing, financial, service, communications, technology, and entertainment sectors that produce goods and services for West Africa. The country's key imports include industrial supplies, capital goods, food and beverages, fuel, lubricants, transport equipment and parts, and consumer goods. Exports of oil and natural gas are the primary drivers of Nigeria's economic growth and the government prioritizes diversification via infrastructure development, agricultural production, and manufacturing for export.^{cxxxiv} With political stability, strife in the region and extensive corruption, doing business in Nigeria has been viewed with suspicion despite its rich human, natural, and business resources.

On arriving in the country, make arrangements to be picked up by your own contacts or a company representative as personal safety is paramount and appointments should be prearranged. Relationships are all important in Nigeria. Dress conservatively, but to impress, to convey your personal importance. This also means having lightweight, comfortable, dark-colored clothing and an umbrella to protect yourself from frequent rainstorms. Business meetings may begin late, but do be punctual and be prepared for a delayed start. Establishing a strong relationship with your business partners requires a lot of social interaction; thus discussion will be both personal with questions about hobbies, family, and outside interests. Business entertainment will likely be called for after establishing trusted contacts, but aside from the best hotels, sufficient, but not excessive cash will be required to entertain well.^{cxxxv}

North Africa

The Kingdom of **Morocco**, the country located on the northwestern corner of Africa, is bordered by the Atlantic Ocean in the west, by the Mediterranean Sea in the north, by Mauritania and Algeria, to the south and east.^{xxxxvi} It shares small borders with Spain and maritime borders with Portugal. The country has a 2017 population of 35.2 million; capital city is Rabat, largest city is Casablanca. The government is parliamentary constitutional monarchy with a prime minister supported by a bicameral parliament consisting of a Chamber of Representatives and a Chamber of Advisors. Given its central location, it supports a variety of business activities, such as warehousing and redistribution among others and IT services reach around the globe to the EU, the Middle East, and Eastern Europe. The trade agreements it has established support tariff-free trading in major markets throughout these regions.^{xxxxvii} Morocco's key imports include crude petroleum, textile fabric, telecommunications equipment, wheat, gas and electricity, transistors, plastics. Its industries export phosphates, textiles, electric components, inorganic chemicals, transistors, citrus fruits, vegetables, and fish.^{xxxxviii}

As a foreign businessperson, you will expend time and effort developing any business relationship with Moroccans. Business cards should be translated into Arabic or French. Your business meetings will be formal and emphasize the courtesy of advance notice and confirmation. Be sure to avoid scheduling meetings during the season of Ramadan or on Fridays between the hours of 11:15 a.m. and 3:00 p.m. so as to avoid conflict with Islamic prayer. Making a strong impression with conservative dress is key. It is only after much discussion and an established long-term business relationship that Moroccans will establish any business agreement. Government oversight will include several ministerial departments should government approval be required.^{xxxix}

East Africa

Kenya – is an East African country that borders the Indian Ocean to the southeast, Somalia to the northeast, Ethiopia to the north, Sudan to the southwest, Uganda to the west and Tanzania to the south. The country straddles the equator with a square mileage of some 224,961 miles. As of 2017 Kenya has a population of 48.5 million people. Swahili and English are its official languages, though numerous other languages, mainly Kikuyu and Luhya, are spoken. Its national capital is Nairobi and chief port is Mombasa.^{cxl} The country's economic mainstay is agriculture supported by the main crops of corn, millet, sweet potatoes, and various fruits. The main industries are small-scale production of consumer goods like tea, textiles, coffee, tobacco, food processing, iron and steel products, petroleum products, and cement. Its primary imports consist of imports mostly machinery and transportation equipment, petroleum products, motor vehicles, iron and steel, resins and

plastic. Tourism is also important to its economy.^{cxli} The government has established Special Economic Zones, Industrial Parks, and industrial clusters to promote small- and medium-scale manufacturing, development of niche products, and commercialization of its research and development activities^{cxlii} enabling Kenya to exceed the average growth of 1.4% for Sub-Saharan countries, with a growth rate of 6% expected in 2017. Unfortunately, business-government corruption remains a problem so companies will encounter demands for bribes and informal payments. Conceding to these demands is contrary to the U.S. Foreign Corrupt Practices Act. China has targeted Kenya for counterfeited goods that include medicines, automotive parts, electronics, alcoholic beverages, cigarettes, music, and videos. Border enforcement is poor given a lack of resources and other challenges necessitating patent and trademark registration as protection of intellectual property.^{cxliii}

In business meetings, corporate dress code is formal, but not required. You can rely on Kenya's business community to speak English. Punctuality there is valued and you can anticipate discussing proposal and project issues in detail. In dealing with the government, your Kenyan business partners will be helpful with overcoming bureaucratic hurdles.^{cxliv}

Southern Africa

South Africa – is the southernmost country on the African continent encompassing 472,000 square miles. It is bordered by the Atlantic Ocean on the west, the Indian Ocean on the south and east. Namibia, Botswana, and Zimbabwe lie along its northern border from east to west; Mozambique and Swaziland border South Africa to the northeast. Three cities, Pretoria (executive), Cape Town (legislative), and Bloemfontein (judicial) serve as capitals. Important commercial, industrial, and cultural centers are Johannesburg, Durban, East London, and Port Elizabeth. Its inhabitants number 1.25 million. The government recognizes 11 official languages that include English spoken with a heavy South African accent. South Africa, the most sophisticated free-market economy on the African continent, moved into recession during the first quarter of 2017 with a decrease of 0.7% in GDP with trade falling nearly 6% and manufacturing by 3.7%. Positive growth in agriculture and mining industries was insufficient to avert the economy's slipping into recession.^{cxlv} With a strong industrial base and sophisticated financial sector, South Africa typically exports mineral products, precious metals, vehicles, and aircraft vessels, iron and steel products, machinery, and chemicals and requires machinery, mineral products, vehicles and aircraft vessels, chemicals, vehicle parts, and iron and steel products as imports.^{cxlvi}

Before conducting business in South Africa become well versed in the country's politics and economics. As in many countries, you will need to invest time and effort to establish business relationships. Dress conservatively, but with

style, for your business meetings. Scheduling a business meeting in South Africa is best accomplished by initially using datafax followed by a confirming telephone call or e-mail message. Be sure to be on time as the South African business partners appreciate punctuality. Greet others with a firm handshake and maintain eye contact. Exchange business cards only at request. Should you dine at a business partner's home, be sure to bring South African wine, chocolates, or flowers for the hostess.^{cxlvii}

In summary, this global business cultural tour points out the importance of acquainting oneself and one's firm with the business culture of the customer and its business community. Too often we fail to recognize the need to "unload" or take our own culture baggage into account and acquaint ourselves with the people of "new and different cultures and lands." Hopefully, this global tour has awakened business owners, executives, and key decision makers like you to take advantage of the opportunities these markets offer and has increased your confidence that with an increased understanding of these cultures, growing global markets is achievable and worthwhile.

Completing the Transaction: International Trade Procedures, Regulations, and Practices

Merchants have no country. The mere spot they stand on does not constitute so strong an attachment as that from which they draw their gains.ⁱ

—Thomas Jefferson, American statesman

Conducting business in the modern global economy offers great rewards, but involves limiting risks in international business transactions. The primary legal tool for such purposes is the international business transaction agreement or contract. Examples of international business transaction agreements include international sales contracts, international distribution agreements, supply agreements, intellectual property licenses, franchise agreements, development agreements, letters of credit, joint venture agreements, and others, as well as hybrids and combinations of these agreements. You will likely start with an international sales contract. To ensure profitability and a level of risk that you and your customer are comfortable with, make sure you address all contract elements, issues, and remedies.

Making the Sale: Proposals, Shipping, Payment, and Trade Finance

As South Korea shows, active participation in international trade does not require free trade. Indeed, had South Korea pursued free trade and not promoted infant industries, it would not have become a major trading nation. It would still be exporting raw materials (e.g., tungsten ore, fish, seaweed) or low-technology, low-price products (e.g., textiles, garments, wigs made with human hair) that used to be its main export items in the 1960s.ⁱ

—Ha-Joon Chang, economist and author

Among the most critical challenges and complex issues that you will face in growing your global markets will be pricing your products and services to include all the costs in their production and delivery, quoting completely and accurately, and choosing terms of sale and delivering the goods to your overseas customers.

Pricing

A company's global pricing policy may make or break its overseas expansion efforts. You and your firm will also be challenged to coordinate pricing policy across different countries so it's vitally important to get pricing policy right. A mixture of factors governs your global pricing decisions. Some of the drivers are related to the so-called four C's: Company (costs, goals), Customers (price sensitivity, segments), Competition (nature, intensity), and Channels. Aside from these, in many countries, pricing decisions are often influenced by government policies.

When developing a pricing strategy for your global markets, determine the goals you want to accomplish with your pricing. You may want to maximize current profits or project a premium image. The most important pricing objectives of most companies doing business in the United States (including foreign-based firms) are: (1) to achieve a satisfactory return on investment, (2) to maintain market share, and (3) to meet a specified profit goal. Initially, you may set a relatively low market penetration price (compared to other countries). Once you are well established, you may shift your objectives and align them with the goals you pursue elsewhere.

Company costs set the floor in your pricing decisions. So, you want to set a price that will at least cover all relevant costs for manufacturing, marketing, and distributing your products. The most popular practice is cost-plus pricing, an approach that adds international costs and a mark-up to the domestic manufacturing cost. An alternative approach is dynamic incremental pricing, a strategy that arrives at a price after removing domestic fixed costs. Only variable costs generated by the exporting efforts and a portion of the overhead load should be recuperated. Examples of exporting-related incremental costs include manufacturing costs, shipping expense, insurance, and overseas promotional costs. Although the second approach is more acceptable from an economic perspective, you don't want to be accused of dumping product in your new market.

Consumer demand and buying power are key considerations. Consumers' perceived value attached to your product will set a ceiling for the price. Consumer demand is a function of buying power, tastes, habits, and substitutes—all the factors that vary from country to country. One option is to go for the mass market by adjusting the product. You might even consider

downsizing the product (small volume, smaller size, fewer units per package) or lowering the product quality or charging prices in the same range as your domestic price and targeting the upper end of the foreign market.

There is no doubt about competition being a key factor in global pricing. Differences in the competitive situation across countries will usually lead to cross-border price differentials. Not surprisingly, product prices tend to be very low in markets where competing brands are priced low and vice versa in high-price markets. The competitive situation may vary for a number of reasons. First, the number of competitors typically varies from country to country. In some countries, you face very few competitors or even enjoy a monopoly position, whereas, in other countries, you have to combat numerous competing brands. Second, the nature of competition will differ: global versus local players, private firms versus state-owned companies. The third is the distribution channel. The pressure exercised by channels can take many forms. Variations in trade margins and the length of the channels will influence the ex-factory (Incoterm) price you charge. The power of large-scale retailers in Europe is visibly illustrated by the hundreds of hurdles that several manufacturers faced in implementing every-day-low-pricing (EDLP). With EDLP, the manufacturer offers consistently lower prices to the retailer (and the ultimate shopper) instead of promotional price discounts and trade promotions.

Last, but not least, government policies can have a direct or indirect impact on pricing policies. Factors that have a direct impact include sales tax rates (e.g., value-added taxes), tariffs, and price controls. An increase in the sales tax rate will usually lower demand. However, in some cases, taxes may selectively affect imports. Another concern is price controls that either affect the whole economy (for instance, in high-inflation countries) or selective industries. Aside from direct intervention, government policies can have an indirect impact on pricing decisions. For instance, huge government deficits spur interest rates, currency volatility, and inflation. How these factors interrelate will affect product cost, and ultimately you will have to decide what costs should be passed on to your customers.

As you can see there is much to consider in arriving at pricing policy. Learn as much as possible about your target market(s) and be smart about pricing. It affects your bottom line success.

Quotations

Many export transactions, particularly initial export transactions, begin with the receipt of an inquiry from abroad that is followed by a request for a quotation (See Appendices B and C for sample proposals you can send in reply). The preferred method for export is a pro forma invoice, a quotation prepared in invoice format.

If at all possible and importantly, quote pricing in U.S. dollars or the appropriate domestic currency to eliminate the risk of exchange rate fluctuations and problems with currency conversion.

A quotation describes the product, states a price for it, sets the time of shipment, and specifies the terms of the sale and payment. Since your foreign customer may not be familiar with the product, the description of it in an overseas quotation usually must be more detailed than the description you use in a domestic quotation. The description should address the following 15 points:

1. Seller and buyer names and addresses.
2. Buyer's reference number and date of inquiry.
3. Listing of requested products and a brief description.
4. The price of each item (it is advisable to indicate whether items are new or used and to quote in U.S. dollars to reduce foreign-exchange risk).
5. Appropriate gross and net shipping weight (in metric units where appropriate).
6. Appropriate total cubic volume and dimensions packed for export (in metric units where appropriate).
7. Trade discount (if applicable).
8. Delivery point.
9. Terms of sale.
10. Terms of payment.
11. Insurance and shipping costs.
12. The validity period for quotation.
13. Total charges to be paid by the customer.
14. Estimated shipping date from U.S. port or airport.
15. The currency of sale.

Pro forma invoices (see Figure 8-1)ⁱⁱ are not used for payment purposes. In addition to the 15 items previously mentioned, a pro forma invoice should include two statements: one that certifies the pro forma invoice is true and correct, and another that gives the country of origin of the goods. The invoice should also be clearly marked "pro forma invoice."

[Company Name]

[Street Address]
[City, ST ZIP]
Phone: [000-000-0000]
Fax: [000-000-0000]
Website:

PRO FORMA INVOICE

Date	1/1/2011
Expiration Date	1/30/2011
Invoice #	[123456]
Customer ID	[123]

CUSTOMER

[Name]
[Company Name]
[Street Address]
[City, ST ZIP]
[Phone]

SHIP TO

[Name]
[Company Name]
[Street Address]
[City, ST ZIP]
[Phone]

SHIPPING DETAILS

Freight Type [Air or Ocean]
Est Ship Date [Date]
Est Gross Weight [weight] [units]
Est Cubic Weight [weight] [units]
Total Packages [Qty]

PART NUMBER	UNIT OF MEASURE	DESCRIPTION	QTY	UNIT PRICE	TAX	TOTAL AMOUNT
123ABC	pounds	Material ABC	3	45.23	X	135.69
						-
						-
						-
						-
						-
						-
						-
						-
						-
						-

TERMS OF SALE AND OTHER COMMENTS

[Include and terms of sale or other information as needed]
[Include payment terms such as Letter of Credit, Open Account or other terms.]

Subtotal	135.69
Taxable	135.69
Tax rate	6.250%
Tax	8.48
Freight	-
Insurance	-
Legal/Consular	-
Inspection/Cert.	-
Other (specify)	-
Other (specify)	-
TOTAL	\$ 144.17
Currency	USD

ADDITIONAL DETAILS

Country of Origin [Country]
Port of Embarkation [Name]
Port of Discharge [Name]

Reason for Export: []

I certify the above to be true and correct to the best of my knowledge.

x
[Typed Name]
[Company Name]
Date

Figure 8-1. Pro Forma Invoice Form

Pro forma invoices are models that the buyer uses when applying for an import license, opening a letter of credit, or arranging for funds. Detail your invoice carefully, since your buyer may construe the information within it as a legally binding offer you make. As a matter of good business practice, you should ensure your buyer can calculate all costs from the pro forma invoice.

In fact, it is a good practice to include a pro forma invoice with any international quotation, regardless of whether it has been requested or not. When final commercial invoices are being prepared prior to shipment, check with the U.S. Department of Commerce or another reliable source for any special invoicing requirements that may be required by the importing country.

If you specify the agreed-upon price, you should also specify the precise period during which the offer remains valid: 30, 60, 90 days, or longer. If you do not guarantee the price, state explicitly that prices are subject to change without notice.

Setting the Terms of Sale

When companies first enter the international trade arena, they often become confused by the various trade terms that are bandied about by their international suppliers or customers. After years of dealing with domestic trade terms, they are suddenly overwhelmed by a new set of terms. In any sales agreement, it is important that there is a common understanding of the delivery terms since confusion over their meaning can result in a lost sale or financial loss. The terms in international business transactions often sound similar to those used in domestic business, but they frequently have very different meanings. For this reason, you, as the exporter, must know the terms before preparing a quotation or a pro forma invoice.

A complete list of important International Commercial Terms ('Incoterms®'), internationally recognized standard terms of trade used in sales contracts, are detailed in *Incoterms 2010*, a booklet that is issued by the International Chamber of Commerceⁱⁱⁱ (ICC) Publishing Corporation, Inc. (The ICC also provides model contracts and clauses providing the parties a neutral framework for their contractual relationships.) Incoterms^{iv} are used to ensure the buyer and seller each know which of the parties is responsible for transporting goods sold, including insurance, taxes, and duties; the locations at which the goods should be picked up and transported to; and which of the parties is responsible for the goods sold at each step during their delivery.

A few of the more frequently used trade terms follow.

CIF (Cost, Insurance, Freight)^v requires you, the seller, to only quote a price for sea and inland waterway transport of the goods, including the marine insurance premium (minimum coverage) and miscellaneous charges to the port of arrival from the ocean vessel.

CFR (Cost and Freight)^{vi} requires you, the seller, to quote a price for the goods that includes the cost of sea and inland waterway transport to the named port of arrival transferring the risk of loss or damage to the goods to the customer when the goods pass the ship's rail in the port of shipment—a named overseas port where you quote a price for the goods that includes the cost of transportation to the named port of arrival. The buyer covers the cost of insurance.

CPT (Carriage Paid To)^{vii} and **CIP (Carriage and Insurance Paid To)**,^{viii} named places of destination, are terms used in place of CFR and CIF, respectively, for all modes of transportation (rail, road, sea, air, inland waterway, or by a combination of such modes), including intermodal.

EXW (Ex-Works)^{ix} at a named point of origin (e.g., ex-factory, ex-mill, ex warehouse) is a term where you quote a price applicable only at the point of origin. You fulfill your obligation when you place the goods at the customer's disposal at the specified premises within the fixed time period. All other charges and risks involved in taking the goods from your premises to the desired destination are put on the customer's account. The customer would retain a freight forwarder that arranges for outbound rail, and/or air/sea shipment.

FAS (Free Alongside Ship)^x at a named port of export means that your quoted price for the goods includes charges for their delivery alongside a vessel at the port. You handle the cost of wharfage (a charge assessed by a shipping terminal or port when goods are moved through the location), while the customer is accountable for the costs and risks of loading, ocean transportation, and insurance. This term also means the customer bears all the cost and risk of loss or damage to the goods once you deliver the goods alongside ship.

FCA (Free Carrier)^{xi} at a named place. This term designates your responsibility for handing over the goods, cleared for export, into the charge of the named carrier at the named shipping point. If your customer does not precisely name the shipping point, you may choose the place where the carrier will take the goods into his charge. It may also be used for multimodal transport, container stations, or any mode of transport, including air.

FOB (Free On Board)^{xii} at a named port of export is a term where you quote the buyer a price that covers all costs up to and including the loading of goods aboard a vessel at the named port of shipment. Thereafter, your customer bears all costs and risks of loss or damage to the goods.

It is important to understand and use Incoterms correctly. A simple misunderstanding may prevent you from meeting your contractual obligations or make you responsible for shipping costs you sought to avoid.

Ensure the quotation to your prospective customer uses Incoterms of shipment, is clear, and is unmistakable. Industrial machinery quoted “EXW

Saginaw, Michigan, not export packed” would confuse most prospective foreign customers.

A customer receiving a quotation worded in this fashion would find it difficult to determine the total cost of his purchase and might hesitate to place an order with you.

Quote CIF or CIP^{xiii} whenever possible, as it shows the foreign customer the cost of getting the product to or near the desired country. If you need assistance in figuring CIF or CIP prices, an international freight forwarder can help. Furnish the freight forwarder with a description of the product to be exported, its weight, and cubic measurement when packed. The freight forwarder can compute the CIF price usually at no charge. If at all possible and importantly, quote pricing in U.S. dollars or the appropriate domestic currency to eliminate the risk of exchange rate fluctuations and problems with currency conversion.

To ensure your bottom line is positive, exercise care in pricing your products and services, their production and delivery, quoting completely and accurately, selecting your Incoterms of sale for the foreign market. These cost elements are just as important in a global market as they are in doing business domestically. Doing so should ensure success in your market entry and generate follow-on foreign sales.

Last but not least, and importantly, should your customer (a commercial entity, even distributor who takes title to the merchandise) accept your sales proposal and indicate its willingness to enter into a binding contract, be sure you execute (sign) the agreement in the United States or your home country jurisdiction. Executing the contract in-country on a sales or other foreign trip can “establish a presence,” thus exposing you to tax liability from your customer’s country. A best practice is conferring with your tax counsel or CPA for the best tax avoidance practice to take in this regard.

Packing and Shipping with the Right Documentation

Across a wide number of industries, the way companies market to international customers has changed dramatically demonstrating that we have now entered the “Age of the Customer.” Companies engaged in global business are now more than ever responsive to the needs and interests of their customers. This newfound appreciation for the customer is leading global companies to compete for market share through a variety of novel methods that include freight forwarding, the coordination and shipment of goods from one place to another by carriers via air, sea, rail or highway.^{xiv}

International freight forwarders don't move your goods—they are not carriers. They do serve companies seeking a high level of organization, transparency, and flexibility by quoting the buyer and seller the cost of shipping, port charges, consular fees, the costs of special documentation, insurance, and handling fees. They also recommend packing methods that protect merchandise during its transit and can arrange to have merchandise packed at the port or site of containerization. If your firm, as shipper prefers, the freight forwarder can reserve the necessary space on a vessel, aircraft, train, or truck, and even prepare the bill of lading and any special required documentation. Lastly, freight forwarders move shipments from the pick-up point to the air or seaport and route documentation to the seller, the customer, even a paying bank. So, freight forwarders offer the global business incredible value enabling businesses to focus on their core competencies—manufacturing, selling, and servicing their customers.

Now that you know what services freight forwarders perform, do you need their support for your global customers? Answering that question requires examining your business needs and carefully considering the benefits of retaining the “right” freight forwarder. Those benefits include^{xv}:

Manageability and Organization – Utilizing their networks, freight forwarders can identify problems and immediately take corrective action.

Versatility – Freight forwarders are able to reroute shipments to achieve scheduled delivery.

Cost Savings – Freight forwarders negotiate lower terms of shipment with carriers and leverage their knowledge of duty rates and regulations, enabling your global business to deliver merchandise faster, thus making it more competitive.

Simplicity – In freight forwarders, your global business has one vendor, one point of contact, and the flexibility in making an international delivery.

Modern Tracking Tools and Software – Freight forwarders enable their shippers to track delivery of their products to the customer.

With the help of the “right” freight forwarder, your global business can focus on growing and improving business in several world markets without having to worry about the logistics of shipping. Freight forwarders may not be required for every shipment you make, but a close comparison of your international business needs against their services will determine whether or not a freight forwarder is a right fit for your shipments. The “right” freight forwarder fulfills the role of your logistics department in serving your global customer.

Considering the importance of their distribution role, selecting a responsible freight forwarder is important. Considerations in your choice of freight forwarder should include the following^{xvi}

1. **The Landed Cost** – which identifies all expenses your customer will incur—your sales price, air/ocean shipping, customs, duties, taxes, packing and handling fees—your customer needs to know to avoid unexpected expenses.
2. **Options for International Shipping Speeds** – which provide different shipping options and speeds between standard or expedited delivery.
3. **Guaranteed Duties** – full disclosure of duties applicable to the costs of shipping.
4. **Experience** – cost avoidance of customs, warehousing, and routing expenses that might be incurred in advance of shipment.
5. **Reliability**^{xvii} – service, information, and on-time delivery.
6. **Service and Prices** – expertise and competitive pricing.
7. **Information Management** – online pricing, accurate reporting tools, and information.

Some forwarders are more familiar with certain aspects of trade than others. Therefore, it is a wise business decision to interview each forwarder focusing on the following questions. Consider each before making your selection of the forwarder to use.

Does the freight forwarder:

- Have an office near your shipping port?
- Have experience handling your type of product and shipping to your market?
- Have experience with the type of carriers you require?
- Have a good credit rating?
- Have favorable shipping rates and delivery schedules?
- Receive good recommendations from carriers?
- Belong to a professional association or organization?
- Have expertise shipping to your buyer's country?
- Have a reputation for friendliness, competence, efficiency, reliability, cost-effectiveness, trustworthiness, and using fair business practices?
- Is the forwarder bonded and licensed by the Federal Maritime Commission or Cargo Network Services?

It is always important to choose the right forwarder for your type of business, unless your customer has selected its own forwarder and is paying for all or most of the charges on a collect basis, usually more common with airfreight than sea freight shipments. Here's a list of the top 25 freight forwarders.^{xviii}

Making Your Global Shipments

To minimize the complexity of shipping globally, realize that many people and companies will be involved in the physical act of moving product, an integral part of growing your global markets. As a prospective exporter, you and your team should learn about the logistics of moving your product between your manufacturing facility and your target markets. Although there are many aspects of growing your global markets that allow you to be creative, there is no room for error in ensuring you comply with the contracted delivery time of the product to your customer. Should you lack the necessary expertise, it is best to leave distribution to the experts.

The variables that impact shipment logistics and distribution are many. Distribution modes and requirements impact total cost, which may vary as they relate to packaging, labeling, transit times, perishability, and damage or loss of cargo. Errors in distribution can lead to increased labor costs affecting the profitability of your foreign sales. Thus, familiarizing yourself and your team with the businesses and parties that have temporary control for processing, handling, and movement of your shipments is important. You will likely have direct contact with only one or two of the companies involved and little or no contact with the others. So let's take a look at the players and their roles.

The Shipper— This is you, the person/firm making the shipment. As “Shipper,” you accept responsibility for describing the details of the merchandise being transported to determine accurate pricing and information for the handling, stowage, insurance, and transit time. These details include the following:

- Description of the cargo.
- Origin and destination of the shipment.
- Origin of manufacture of the goods.
- Gross and net weight of each package.
- Cubic measurement (in cubic feet or cubic meters).
- Marks and numbers on the goods for identification.
- Type of quotation required based on the Incoterms terms of sale: EXW, FOB, and CIF.
- The material value of the goods.

- Type of marine cargo insurance required (also depending on the term of sale).
- The legality of goods that are being shipped.
- Any import duties.

As “shipper,” you are responsible for supplying paperwork—commercial invoice, airway bill, packing list, certificate of origin, and other regulatory documents to submit to the freight forwarder. Most importantly, you are responsible for any charges that might arise as a result of some unusual occurrence like a port strike, a customs inspection, or an unusual delivery situation. Make sure you know all of the rules for importing to the specific country to which you are shipping and budget extra money in the event that it is needed. Exactly which documents are required in a particular transaction depends on the requirements of the U.S. government and the government of the importing country.

The International Shipping Company – is the company you will sign the contract with to oversee your shipment. You will turn to this company in the event of any claims for damages, updates on your shipment, and general questions about the process and any disputes. Select an international shipping company^{xix} that performs one of the other functions that follow for ease of communication with the involved parties and more direct responsibility for your shipments.

The Origin Agent – is the local company that will visually survey, that is, see what is being shipped to ensure the accuracy of the company quotation. The Origin Agent will also pack and load the shipment, possibly being the Freight Forwarder and/or the Consolidating Warehouse.

The Freight Forwarder – is the company licensed by the International Air Transport Association (IATA)^{xx} to handle air freight and the Federal Maritime Commission to handle ocean freight. They handle both direct shipments—a shipment sent on its own without being co-loaded with other goods; and consolidated shipments, those where goods from two or more parties are shipped together, adding weight and security to the shipment, and usually lowering the cost of freight.

The Customs Broker – is the individual or company licensed to perform transactions at ports on behalf of other parties. The broker will recommend efficient means for clearing goods through the maze of customs entry protocol and estimate the landed costs for shipments entering the country. The transactions negotiated for the importer will include the entry of goods into a customs territory, payment of taxes and duties, and duty drawback or refunds of any kind. Furthermore, the broker has knowledge of regulations,

not only from the corresponding customs authority, but also from other regulating agencies.

The Consolidating Warehouse – If you do not have an exclusive container (an ocean container holding only your shipment), your goods will need to be loaded into a container with other cargo. The decision about whether to use an exclusive container will be made based on the volume of your shipment and the distance between the origin city and the port of embarkation.

The Export Port – is the actual port where the container is brought (already loaded and sealed) to be loaded onto the aircraft or ship. The only important thing to know is whether the Origin Port Fees and Origin Terminal Handling Charges are included in your quote. They will usually be listed as “Origin Port Fees” or “Origin Terminal Handling Charges.”

The Air or Ship Line – is the company that will issue the “Master Bill of Lading” or “Seaway Bill of Lading.” Ocean carriers provide services that include the following:

- Accepting cargo bookings from shippers or forwarders.
- Dispatching containers to origin locations (known as “drayage”).
- Processing bills of lading (not “master” but original).
- Preparing freight invoices, manifests, arrival notices, delivery receipts, and stow plans.
- Filing export declarations with customs (if not done by shipper or forwarder).
- Notifying consignees (buyers) of arrival and availability of cargo.
- Arranging inland transportation at the destination (if required).

It makes good sense to ask which ship line your goods will sail on: (1) to make sure the quote is based on actual rates, not just a guess; and (2) to allow online tracking directly with the ship line. Budget extra money (usually 10%–20% of the total price quote) in the case of a tidal wave or port strike. The Ship Line might also be the Container Line, the company that owns and rents out the container. Air carriers, such as Federal Express (FedEx) and United Parcel Service (UPS) work with freight forwarders on consolidated cargoes. The airfreight business moves at a much more rapid pace than that of sea freight and involves fewer steps.

The Destination Port – is where the goods are finally unloaded in the country of destination. It is very important that you check your price quote to make sure that it includes Destination Port Fees and Destination Terminal Handling Charges that you incur at the destination port of your cargo. These fees cover movement, unpacking, inspection, and further administrative tasks that your cargo has to undergo at the port of destination and are usually due in the currency of the destination country and will often be listed as “not included.” The quote you accept should include them or at least show what they will be. Even if they are not listed, they are payable regardless of the amount. If you can’t identify the amount of the Destination Port Fees in advance, expect them to be \$1,000–\$2,000 or more, regardless of the size of your shipment.

The Customs Bonded Warehouse – This is the destination warehouse where your goods will be held until they clear customs. In some countries, containers with more than one shipment must be unloaded and each shipment cleared through customs individually. It is important to find out how this process works and how much time you have before storage and other charges are incurred.

The Destination Agent – is the company in the destination country that will handle the customs clearing procedures, dealings with the port, and delivery to your customer. You can use the Destination Agent as your International Shipping Company to arrange for the entire shipment.

All these players have an essential role in the making of your global shipments, and the cost of their services must be accounted for in the preparation of the bill of lading and the pricing you quote and charge customers in the target market. It is essential to understand the role each plays and to accurately identify their costs, if any, to avoid negative impacts to your bottom line.

Last, but not least, it is necessary to mention the importance of packing and packaging. In addition to getting competitively priced freight rates and quotations for services, you, as the shipper, must ensure your product arrives in excellent condition; and you must pay attention to the stress that international transportation, especially ocean shipment, places on your shipment(s). Exercise care in selecting packing materials to protect your shipments from in-transit issues like rough handling during loading and unloading, excess weight, compression from the weight of other product containers, impact and vibration, moisture, higher and lower than recommended temperatures, even breakage, and pilferage. Top grade packing and packaging products will ensure your shipments arrive in good condition. The complexity of packing and packaging requires in-company specialists or third-party experts who can evaluate and design specific packing and packaging solutions.

Methods of Payment

Now to the most important part for your business: getting paid. Mechanisms for financing exports have evolved over the centuries in response to a problem that can be particularly acute in international trade: the lack of trust that exists between an unknown buyer and unknown seller. That said, “Any sale is a gift until you have been paid!” is especially true for international transactions where the buyer and seller could be 12,000 miles or more away. Be sure to undertake appropriate due diligence when qualifying your customer. While it is prudent to make use of the various credit reporting companies active in your customer’s country, you also should ask for trade references, especially for other domestic companies you learn are doing business in your target market. Figure 8-3 is a comparison of the typical methods for international payment and details associated with each.

Method	Usual Time of Payment	Goods Available to Buyer	Risk to Exporter	Risk to Importer
Prepayment	Before Shipment	After payment	None	Relies completely on export to ship goods as ordered.
Letter of Credit	When Shipment is made	After payment	Little or none, depending on terms	Assured shipment made, but relies on exporter to ship goods described in documents
Sight Draft; documents against payment	On presentation of draft to buyer	After payment	if draft unpaid, must dispose of goods	Same as above unless importer can inspect goods before shipment
Time Draft; documents against acceptance	On maturity of draft	Before payment	relies on buyer to pay drafts	Same as above
Consignment	At time of sale by buyer	Before payment	Allows importer to sell inventory before paying exporter	None; improves cash flow of buyer
Open Account	As agreed	Before payment	Relies completely on buyer to pay account as agree	None
Credit Card	According to credit card company procedures	When goods arrive in importer's country	None	Exporter fails to deliver goods
Countertrade	When exporter sells countertraded goods	When goods arrive in importer's country	Exporter may not be able to sell countertraded goods	None

Figure 8-3. Comparison of Payment Methods

Any sale is a gift until you have been paid.

PayPal

Most small business owners in the United States begin with their terms of sale using PayPal, especially if the value of the sale is less than \$5,000 and in some cases for sale amounts up to \$10,000. The items sold must be a physical, tangible item that can be shipped. This means intangible items such as digital goods and services do not qualify for this payment method. With a network of more than 190 countries and regions, PayPal deals in 25 currencies charging a nominal service fee on each transaction. Using PayPal to receive payment currently comes at a cost of 2.9% plus \$0.30 per U.S. domestic transactions and 3.9%, plus a fixed fee for international payments. Of course, these figures can change at any time so be sure to work with PayPal ahead of time to confirm the current rates if this is the payment approach you elect to use. As your international transactions increase, 3.9% of your customer's payment will become a drain on profit margins. See PayPal's detailed fees for currency conversion.^{xxi}

Cash in Advance

If you are paid in advance for an export order, the customer must trust that you will perform the contract as agreed. The buyer's risk is that you, the exporter, will have the money and he/she will only have a promise of your performance. The best part about receiving payment in advance is avoiding any credit risk before title to the goods is transferred. Many exporters prefer wire transfers and credit card payments in advance. Since the creation of the Internet, another alternative to wire transfers and credit card payments is the use of escrow services. Such services introduce a third party that collects, controls, and disburses funds on satisfaction of conditions established by the importer or exporter. The major drawback of the cash-in-advance method of payment for the importer is unfavorable cash flow. Exporters who insist on the cash-in-advance payment method as their sole manner of doing business may lose customers to competitors who offer more attractive payment terms.

Sight Draft

This bill of exchange is a type of payment used for both air and ocean shipments in which the seller/exporter holds title to the transported goods until the importer receives and pays for them. The seller is essentially "drawing" a customer preapproved check against the bank account of the customer. As negotiable instruments, the sight draft must be signed by the drawer/seller, be payable on demand (at sight), contain an unconditional order to a bank to pay a specified amount of money, and be endorsed either to the drawer

(exporter) or the drawer's (exporter's) bank as reflected in the following process. Sight drafts are supposed to be paid immediately, but they often take a day or two to be processed. Common errors you need to avoid making using a sight draft include the following:

- Not specifying either “at sight” or “time.”
- The currency of collection is not specific.
- Not specifically endorsed to the drawer or the drawer's bank.

The sight draft process (Figure 8-4) is as follows:

1. The Drawer/seller and the Drawee/customer negotiate terms and conditions of the transaction.
2. The Drawer ships the goods.
3. The Drawer draws a draft and presents it to the Remitting Bank along with other documents.
4. The Remitting Bank examines the documents and the draft and forwards them to the Presenting Bank.
5. The Presenting Bank notifies the Drawee/customer of receipt of the documents.
6. The Presenting Bank holds the documents until the payment is made by the Drawee/customer.
7. The Drawee/customer examines the documents and makes the payment for the supplied goods.
8. The Presenting Bank releases the documents to the Drawee/customer.

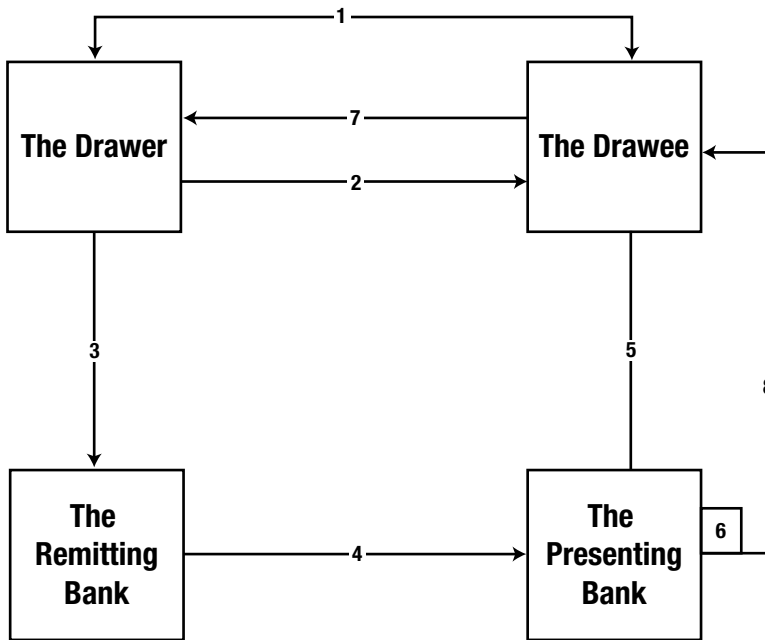


Figure 8-4. Sight Draft Process

Letter of Credit

Letters of credit (LCs) are one of the most secure instruments available to international traders (See Appendix C, Attachment 5, for the example form/content your proposals should include). An LC is a commitment by a bank on behalf of the buyer that payment will be made to the exporter, provided that the terms and conditions stated in the LC have been met, as verified through the presentation of all required documents. If you agree to ship on documentary LC terms, the buyer and seller are both putting their trust in their respective banks to honor their obligations under this financial instrument. The exporter will not be paid until there is documentary evidence that the product ordered has been shipped according to the terms and conditions of the letter of credit. To that extent, the buyer has reduced or mitigated his/her risk through the assurance that his/her money supporting the letter of credit will not be released by the importer's bank until the required documentary evidence is received as detailed in the following process. In addition, the buyer might require an inspection certificate to ensure that the goods meet the requirements of the purchase order.

So, from the buyer's perspective, the letter of credit serves as a performance guaranty. For the exporter, the risk of never receiving payment—or, of the order being canceled—has been mitigated because the importer's bank has

an irrevocable commitment to pay when the required document evidence is presented. The risk for the exporter under this payment method has moved from the importer—who might not be well known by the exporter—to the importer's bank. Generally, that bank risk also can be moved to a confirming bank in the United States, which will agree to pay drafts under the letter of credit if the terms and conditions of the letter of credit are met, thus mitigating the risk associated with the foreign bank (which might be large or extremely small, depending on the bank and country involved).

The letter of credit process (Figure 8-5) is as follows:

1. Exporter/Importer contract to sell/buy goods.
2. Importer's bank issues letter of credit to Exporter's bank on Importer's behalf.
3. Importer's bank issues letter of credit to Exporter's bank on Importer's behalf.
4. Exporter's bank informs Exporter of the letter of credit.
5. Exporter ships goods to Importer.
6. Exporter delivers documents to its bank.
7. Exporter's bank checks documents and pays Exporter.
8. Exporter's bank delivers documents to Importer's bank.
9. Importer pays its bank for the value of goods.
10. Importer sends payment to Exporter's bank.
11. Importer's bank delivers documents to Importer.

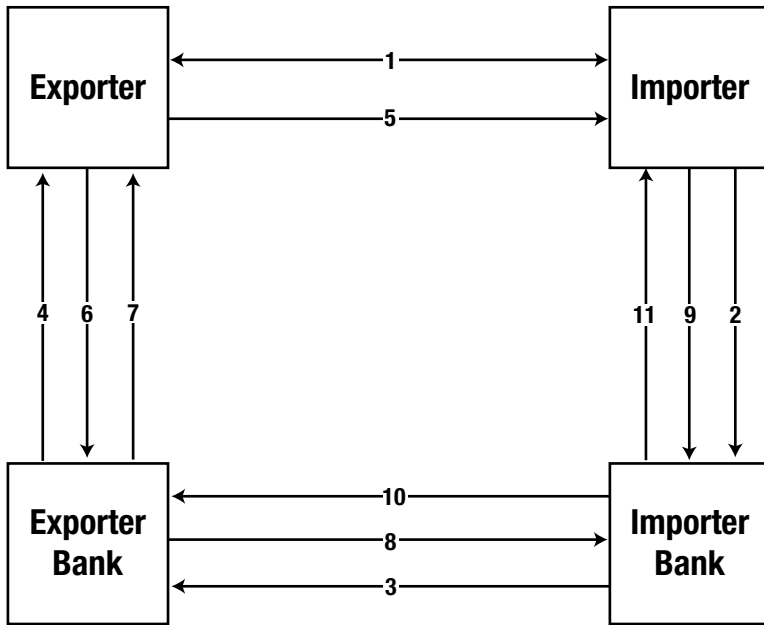


Figure 8-5. Letter of Credit Process

Documentary Collection

A documentary collection (D/C) is a method of financing international transactions in which commercial banks act as agents in processing payment. To begin the process, the exporter prepares a *draft* demanding the importing buyer's payment after the exporter ships the goods and submits the draft and supporting documents such as an inspection certificate, packing list, and bill of lading. Acting on the exporter's instructions, the remitting bank forwards the supporting documents to the importer's in-country collecting bank with instructions to release documents to the importing buyer for payment. In this method of financing, the exporter assumes availability of funds for payment and relies on the importer to authorize payment on its receipt of documents evidencing shipment. Based on performance evidenced by the exporter's documents, the importing buyer reduces the risk of exporter non-performance while maintaining its working capital until the goods are delivered by the exporter. Simultaneously, the exporter retains title to the goods until such time as the importing buyer's payment has been received. This method of financing an international transaction is a relatively simple, inexpensive, and enforceable instrument under the laws of most countries, thus reliable as detailed in the payment process that follows.

The documentary collection process (Figure 8-6) is as follows:

1. Exporter/Importer contract to sell/buy goods.
2. Exporter's bank gives draft to Exporter.
3. Exporter ships goods to Importer.
4. Exporter delivers documents to its bank.
5. Exporter's bank sends documents to Importer's bank.
6. Importer delivers payment to its bank.
7. Importer's bank gives bill of lading to Importer.
8. Importer's bank pays Exporter's bank.
9. Exporter's bank pays Exporter for goods.

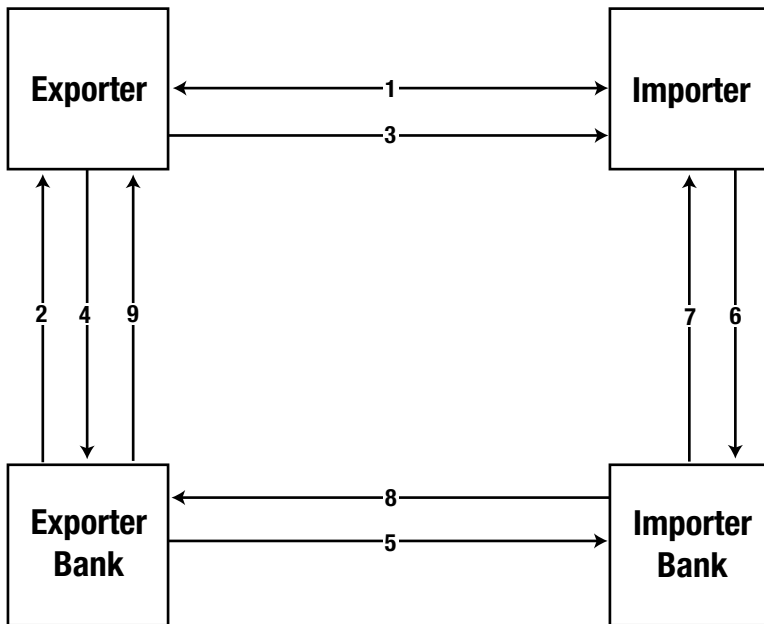


Figure 8-6. Documentary Collection Process

Open Account

An open account transaction is a sale in which the goods are shipped and delivered before payment is due, which in international sales is typically in 30, 60, or 90 days. Offering open account terms is all about trust between the

buyer and seller. The exporter trusts that having shipped an order, the buyer will pay for it, hopefully within the negotiated time (terms). The exporter's risk is that the importer will default, in whole or in part, on that obligation. The buyer has no risk since he/she has the product and exporter performance has been met. In fact, after shipment, the exporter has all the risk. Financing an international transaction via open account benefits the importer's cash flow and cost and poses a high risk to the exporter who must rely on the importer's reputation for paying promptly. Foreign buyers seek open account terms as a method of payment knowing international sales are competitive. Exporters offering open account terms of payment can protect themselves by obtaining export credit insurance to insure their foreign accounts receivable against default. It is strongly advised that open account terms only be offered to buyers for which credit insurance^{xxii} coverage has been preapproved.

Consignment

In international transactions, a consignment is a variation of open account in which the exporter receives payment after entrusting an independent foreign sales representative with receipt, management, safekeeping, and sale of goods to the end customer. An international consignment transaction entails risk to the exporter who risks nonpayment, damage, or loss of the goods. Offsetting this risk are the competitive advantages of immediate availability, prompt delivery, and the prospect of reduced direct cost in the storage and management of goods. This makes selecting a reputable, trustworthy foreign sales representative all the more important. Should you elect to consign the sale of goods, take out insurance to insure consigned goods in transit, during the possession of a foreign representative and the risk of nonpayment, damage, or loss.

Under consignment terms of sale, the exporter ships the goods to the importer while still retaining actual title to the merchandise. The importer has access to the inventory but does not have to pay for the goods until it has been sold to a third party. The exporter trusts the importer to remit payment for the goods sold at that time. If the importer fails to pay, the exporter has limited recourse because no draft is involved and the goods have already been sold. As a result of the high risk, consignments are seldom used except by affiliated and subsidiary companies trading with the parent company. Some equipment suppliers allow importers to hold some equipment on the sales floor as demonstrator models. Once the models are sold or after a specified period, payment is sent to the supplying exporter.

Credit Cards

For small business transactions between international merchants and foreign retail customers, some credit cards are a viable payment option. As a merchant, you may enroll in a well-established credit card network that enables international transactions, subject to the normal limitations each card establishes for its network. Credit card companies collect merchant transaction fees typically between 2 to 4% in return for assuming the costs of collecting funds from your foreign customer and any risks of nonpayment and an additional 1 to 3% for currency conversion. Be advised they do not offer exporters and importers any of the help that banks do in dealing with the paperwork and documentation required for international trade.

As an exporter targeting customers in developed economies, setting up merchant services account to accept credit card payments is often the simplest and cheapest solution for smaller transactions. In growing your global market to customers in developing economies, you will have to research the specifics of getting paid. Some developing nations restrict credit card usage, placing restrictions to control the flow of currency. Where such restrictions are not imposed, consumer credit card usage may not be widespread, forcing you to seek other payment alternatives. Make sure you understand the ins and outs before making the sale to make getting paid efficient and cost effective.^{xxiii}

Non-Cash Forms of Payment

In an increasingly competitive international marketplace, an exporter can sell its goods by accommodating sales to cash-strapped customers using non-cash forms of payment. Non-cash forms of payment enable sellers to make the sale and customers to make purchases in countries experiencing a shortage of foreign capital or limiting the sale of currencies to companies that need inputs from offshore.

Countertrade

Countertrade is an additional method of payment in international transactions that occurs when a firm accepts something other than money as payment for its goods and services. Forms of countertrade include barter, counterpurchase, buy-back, and offset purchase. Barter essentially involves the direct exchange of goods and services having an equivalent value, but with no cash settlement. In a counter purchase, the overseas seller agrees to buy goods or services sourced from the buyer's country up to a defined amount. In a buy-back, one firm sells capital goods to a second firm and is compensated in the form of output generated as a result of their use. In an offset arrangement, the seller assists in marketing products manufactured by the buying country or

allows part of the assembly of the exported product to be carried out by manufacturers in the buying country, a practice often found in the aerospace and defense industries, given the high cost of acquiring products and services—so such firms offer their international government customers this option.

Regardless of the method of payment you choose or negotiate with your customer, cash flow is always king. Be sure payment is timely and in accordance with contract terms.

Trade Finance

The field of trade finance describes two of the mainstays of international business: international banking and import/export financing. Here we address import/export financing, an important and fundamental element to international business activity.

U.S. Export Import Bank

Don't look now, but the U.S. Export Import (EX-IM) Bank^{xxiv} was reauthorized by Congress with the passage of the FAST Act on December 4, 2015. That means it is back funding U.S. exports, jobs, and the tax revenue that comes with them. Its doors were closed to new business in July 2015 when it lost its lending authority launching small, medium, and big business complaints about export deals lost for the lack of U.S. government secured credit insurance.

The EX-IM Bank has been one of the key tools in the U.S. toolbox for supporting and growing manufacturing jobs for a generation. The EX-IM backed \$27.5 billion^{xxv} in exports in fiscal 2014 of which 10.7 billion was small business exports and supported 164,000 American jobs making money for the government, sending more than \$674 million in profits to the U.S. Treasury in fiscal 2014.

You say you don't know what the EX-IM Bank is and does? If you are looking to jump-start or expand your foreign sales, EX-IM is available to make U.S. export sales competitive in the world market. The bank, an independent U.S. government agency, fills gaps in private export finance to bolster U.S. job growth at no cost to American taxpayers serving U.S. exporters, brokers, and lenders. More specifically, the purposes of EXIM^{xxvi} are the following:

. . . to aid in financing and to facilitate exports of goods and services, imports and the exchange of commodities . . . authorize loans, guarantees, insurance, credits.. to do general banking. . . to guarantee notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to guarantee, insure, coinsure, and reinsure against political and credit risks of loss; to purchase, sell and guarantee securities. . . ; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money
...

Although, negotiating, managing, and closing any contract are important, ultimately you and your company must get paid and export financing is a key factor in making some export sales successful. This makes understanding financing options and proposing the most acceptable one to both the customer and your company **very** important. In selecting a finance option consider (1) the need for financing to make the sale, (2) the length of time the product is being financed, (3) the cost of different methods of financing, (4) the risks associated with financing the transaction, and (5) the need for pre-shipment financing and for post-shipment working capital.

Ultimately getting paid makes export financing a key factor in a successful sale.

After evaluating these factors, look for assistance through public and private sectors. The following financing options may be available or the most beneficial: extending credit to foreign buyers, working with commercial banks, using discounting and banker's acceptances, using export intermediaries and government assistance programs.

Extending Credit to Foreign Customers

Extending credit to foreign customers must be seriously evaluated as you will be establishing a precedent for future sales from the very start of sales to a foreign customer. If you are reluctant to extend foreign buyers credit, you may risk losing foreign sales. A useful rule of thumb for determining the appropriate credit period for foreign sales is the normal commercial terms in your industry for internationally traded products. A good practice is investigating the customer's credit worthiness at a bank in the customer's local market or insisting on a secure method of payment such as an irrevocable letter

of credit while factoring the associated bank charges into the sales price. Because cash is king, convert export receivables to cash at a discount with a bank, or arrange for third-party financing, if the repayment period extends a year or longer.

Working with Commercial Banks

The same commercial bank services used to finance domestic activities, including revolving lines of credit for working capital, are often sought to finance export sales until payment is received. Banks do not regularly extend financing solely on the basis of an individual order, as they prefer to establish an ongoing business relationship with their customers that export. Based on that assumption, a logical first step is to approach a commercial bank with an international department to discuss export plans, available banking facilities, and applicable charges. Inquire about fees for amending or confirming a letter of credit, fees for processing drafts, and the bank's experience in working with U.S. government agencies that offer export financing assistance. Making these inquiries will be the beginning of a close working relationship with the bank's international department.

Discounting and Banker's Acceptances

A time draft under an irrevocable letter of credit confirmed by a U.S. bank presents relatively little risk of default, so you may be willing to hold a draft until it matures, but note that holding drafts can drain your working capital, the capital of a business that is used in its day-to-day trading operations, calculated as the current assets minus the current liabilities. Consider discounting as another alternative. The bank you establish a business relationship with may be willing to buy or lend against time drafts, if you have a creditworthy foreign buyer who has accepted or agreed to pay at a specified future date. Such an arrangement allows you to convert the time draft into immediate cash, but realize it will be less than full value after being discounted by interest and fees that the bank charges for holding the draft until maturity. The bank may also require you to reimburse it, if the draft is unpaid at the due date.

In another option, known as a *banker's acceptance*, a commercial bank draft requires the bank to pay the holder of the instrument a specified amount on a specified date, typically 90 days from the date of issue. The banker's acceptance is issued at a discount, and paid in full when it becomes due—the difference between the value at maturity and the value when issued is the interest. If the banker's acceptance is presented for payment before the due date, then the amount paid is less by the amount of the interest that would have been earned had it been held to maturity. Banker's acceptances are usually in large denominations. Only a few well-known banks are accepted in the market as

“prime name” banks, such as Chase and others mostly located in New York City and Chicago in the United States and elsewhere, like Helaba Bank^{xxvii} and others located in Frankfurt, Germany, for purposes of creating banker’s acceptances.

Export Intermediaries

In addition to acting as export representatives, many export intermediaries, such as export trading companies and export management companies, can help finance export sales. Export intermediaries may provide short-term financing, or they may simply purchase the goods to be exported directly from you and your company, the manufacturer, thus eliminating any risks to the manufacturer that are associated with the export transaction as well as the need for financing.

For help in determining which financing option(s) may be available or the most beneficial, consult your banker; the local Department of Commerce Export Assistance Center^{xxviii}; your local Small Business Administration^{xxix} office; the Export-Import Bank^{xxx} in Washington, DC, and selected cities; and your state export promotion or export finance office.

The Keys to Global Market Growth

The international business, instead of detracting from our business, is additive to our business.ⁱ

—Michael Casey, Starbucks Chief Financial Officer

The “global marketplace,”ⁱⁱ according to Jennifer Williams, is a term that refers to the international production and exchange of goods, services, and money facilitated by the Internet, a free, 24-hour conduit for information on goods and services providing a means for immediate examination, price and quantity negotiation, and purchase. Related key success factors are the increasing speed and falling costs of communications,ⁱⁱⁱ the ease and cost effectiveness of international travel^{iv} for people and products, and electronic money transfer.^v

In Part 5, a number of key factors are examined that are key to your firm’s growth in the global marketplace.

Keys to Becoming a Successful Exporter

We got into a recession because the global economy went into the recession and we're a big exporting nation.ⁱ

—Steven Harper, Canadian entrepreneur and retired politician

If you look across the Internet at government and other websites promoting exports and foreign trade, you will find those websites reflect a variety of approaches and criteria that you, a prospective exporter, must satisfy to be “export ready.” It is rare that you will find a definition, so a concise definition is needed. So how about the following:

An export ready firm is one that has, at a minimum, the drive, experience, financial resources and capacity to successfully meet demand and deliver a marketable product or service at a competitive price in a foreign market.ⁱⁱ

Another source defines “export readiness as”ⁱⁱⁱ:

- Management commitment.
- Identified primary target markets.
- Selected market entry strategies.
- Developed international marketing plan.
- Prepared programs and forms to select and serve international distributor prospects.

To be export ready assumes you have the resources to start and continue exporting, but you must also be faster, smarter, and better than the domestic competition and other exporters to the target foreign market. Take a look at how you are doing in your home market to determine how well you will do somewhere else. The last element of critical importance in our definition is export experience or expertise. Without this, your entry into foreign markets becomes very challenging.

Let’s answer some key questions crossing your mind. Realize that exporting goods and exporting services present quite different challenges. The former must deal with packaging, customs, and physical delivery, among other things, while the latter entails work permits, credential validation, language, and travel to and from the target market. When exporting goods it is also important to remember that there is often a service component you need or should expect (installation, training, service, warranty, etc.). Right?

First, determine your motivation and unique technology/expertise for growing global markets.

You must also determine your own motivation and identify organizational factors—resources and knowledge you already possess or need to acquire. In your own market and companies competing in other markets, the competition has its own reasons, but principally it sees exporting as a means of expanding for the long term, enhancing its competitive advantage, exploiting its unique technology/expertise, and improving return on investment. So consider your own firm. Do you have the following?

- Clear and achievable export objectives and management commitment to them?
- A realistic idea of what exporting entails and how soon you could achieve results?
- An openness to new ways of doing business?
- An understanding of what is required to succeed in the international marketplace?

Success in foreign markets through exporting requires establishing an international sales and marketing program. You will have to identify markets, develop relationships with prospective customers, And pursue and fulfill transactions that align with what you want to achieve. So consider your company's marketing plan. Does it have the following?

- Resources to do market research on the exportability of your product or service?
- Proven, sophisticated market-entry methods?
- Personnel with culturally sensitive marketing skills?
- Ways of dealing with language barriers?
- Efficient ways of responding quickly to customer inquiries?
- A local representative for marketing efforts?

Expanding domestic markets is challenging in and of itself, let alone globally. Global trade really tests a firm's overall competitiveness, but you and your firm can be successful. Your firm's entry into foreign trade and interfacing with foreign customers will enable you to see new customer product needs and trade requirements. You may develop new product ideas and technologies, even new in-country and domestic partnerships. Consider your firm's products and services. Do you have the following?

- I. A product or service that is potentially viable in target markets? Consider:
 - Who already uses your product or service?
 - Is your product or service in broad general use or limited to a particular group of consumers?
 - Is your product or service popular with a certain age group?
 - Are there other significant demographic patterns to its use?
 - What climatic or geographic factors affect the use of your product or service?
 - Are modifications required to make your product appeal to foreign customers? Take time to investigate.
 - What is the shelf life of your product? Will shelf life be reduced by time in transit?
 - Can the packaging be easily modified to satisfy the demands and the interests of foreign customers?

- Is special documentation required? Does your product have to meet any technical or regulatory requirements?
 - How easily can your product be transported?
 - Would transportation costs make competitive pricing a problem?
 - Do your products require professional assembly or other technical skills?
 - Is after-sales service needed? If so, is it available locally or do you have to provide it? Do you have the resources to do this?
 - If you're exporting services, what is unique or special about them?
 - Are your services considered to be world class?
 - Do you need to modify your services to allow for differences in language, culture, And business environment?
 - How do you plan to deliver your services: in person, with a local partner or by electronic means such as the Internet?
2. Can your company:
- Obtain enough capital or lines of credit to produce the product or service?
 - Find ways to reduce the financial risks of international trade?
 - Find sources for advice on the legal and tax implications of exporting?
 - Deal effectively with different monetary systems and ensure the protection of its intellectual property?
 - Handle the extra demand associated with exporting?

Success in global markets can be developed from superior product technology, packaging, After-sale-service, delivery, And competitive pricing. You will have to plan your success. It is not an overnight proposition and it is **not** impossible regardless of your company size. To succeed in international markets, you don't have to be a big firm. Tens of thousands of small- and medium-sized companies—with foreign sales of between \$30,000 and \$5 million—are currently exporting and are doing very well. Seriously consider your firm's prospects and what it has to offer export markets. In economic times like these, the effort is more than worthwhile!

But First, Have You Protected Your Intellectual Property?

Don't venture into a target foreign market without first protecting the assets and intellectual property (IP) that form the basis of your firm's product and service offerings. For your own firm, And for that matter for the U.S. economy, IP-intense industries, directly and indirectly, support millions of jobs and billions of exported merchandise.^{iv} It's almost impossible to overstate the importance and value of your firm's intellectual property, critical to its competitive success and continued economic growth. Your firm's intellectual property should already be protected by registered trademarks,^v copyrights,^{vi} and patents^{vii} here at home in the United States. It also needs to be protected from unscrupulous companies, organized and individual criminals, even corrupt governments that seek to steal trade secrets, patented products and processes, designs and copyrighted material overseas.

If you have not already acted, your most immediate protective steps start with contacting the U.S. Department of Commerce and its bureaus, the U.S. Patent and Trademark Office^{viii} (USPTO) and the International Trade Administration^{ix} (ITA) to register and secure your firm's intellectual property rights here at home and abroad. The ITA's Office of Intellectual Property Rights^x oversees the U.S. government's STOPfakes.gov website^{xi} coordinating the efforts of all the government agencies involved.

Internationally, the United Nation's World Intellectual Property Organization^{xii} (WIPO) agency leads the development of an international intellectual property registration and protection system for 188 member states. WIPO administers several key international treaties that comprise its IP system:

- The Patent Cooperation Treaty^{xiii} (PCT) assists applicants in seeking patent protection internationally in 148 countries.
- The Madrid International Trademark System^{xiv} provides for the centralized registration and management of trademarks worldwide. A single application can provide trademark protection in the territories of up to 97 member countries.
- The Hague International Design System^{xv} for the international registration of industrial designs allows applicants to register up to 100 designs in more than 65 territories with one application.

In addition, the WIPO Arbitration and Mediation Center^{xvi} provides mechanisms to resolve Internet domain name disputes. Beyond this global intellectual property protection system, take several required actions^{xvii}.

- **Register copyrights and trademarks at the U.S. Copyright Office^{xviii} and the U.S. Trademark Office.^{xix}**
- **Confirm the company's name and brand are available for use in the new country** either online or at the target market's trademark office.
- **Register all brand names at the target market's trademark office.**
- **Extend U.S. trademark registrations to foreign countries** after examining the Madrid Protocol,^{xx} a treaty allowing trademark owners to extend trademark rights to member countries.
- **Apply international copyright notice on catalogs, blueprints, websites, software and other publications and materials** in accordance with the Berne Convention,^{xxi} a treaty that protects works in the foreign country to the same level and extent they are protected in home markets.
- **Register Internet domain names in the target market.**
- **Obtain non-disclosure agreements (NDAs) from local business partners and subcontractors.**
- **Split production among foreign manufacturers** to maintain proprietary information and control of final product assembly.
- **Retain legal counsel abroad in the target country market and here at home in the United States.**
- **Establish and regularly maintain/update a database listing of intellectual property.** Management should regularly monitor this database for IP expiration and taking action against infringement.

These steps, reinforced by sound protection strategies, may not ensure success of your firm's new market expansion efforts, but they are likely to dramatically improve your firm's ability to protect its intellectual property rights and avoid costly foreign law suits.

Is Your Product Ready for Exporting?

The steps you take to prepare your product for export are best determined not only by your knowledge of the product, but also the market research you have of the target market's needs and requirements. In market contacts, this knowledge can provide significant help and insight enabling you to determine what you can sell and where. It will also enable you to determine the extent of product modification required before you can sell. You may find there is no need to adapt your product to the target market; you may have or even develop generic products all markets can accept. Your product redesign may include satisfying packaging to comply with target market labeling standards and cultural preferences. Essentially, you need to do your homework, and if necessary, consult with experts to ensure you have the product that most appeals to your international customer prospects. That means making sure of these things:

- **You have a market.** Just because you have been successful with your domestic market does not mean you will be equally successful with a target foreign market. Identify the competition, if any. If there is no competition, find out why. There may be laws or market characteristics that make distributing your product difficult.
- **You can deliver.** Can your prospective customers obtain your product by some other means? Can you manufacture in-country? Check local laws and make sure your products comply with local laws, standards for construction, use of chemicals, disposal, and proper labeling.
- **Your business and product names** make cultural sense in English and local translation. Use in-country translators to communicate what you intend. What you think is an effective name may not be effective and could be offensive to potential customers.
- **Packaging colors supporting buying behavior.** Be aware of your brand's perception in the target country market. Even if your colors and design principles are effective in domestic markets, you may need to change them starting fresh in marketing products in a foreign market. For example, in Western countries the color red urges caution or danger; it symbolizes prosperity and good fortune in many Eastern countries.

- **Your packaging and labeling design** are appropriate, appealing, understandable to your end user, and compliant. If your product does not anticipate display for sales as customers and retailers expect, you may put your product at a disadvantage. Bar-coding your product may be essential, if you sell the product in stores.
- **The size or quantity of your product** is perfect for patterns of consumption in the target market. In many countries, consumers do not purchase in bulk. The correct sizing of your offering can lead to success or confusion despite survey results that indicate great interest in your product.
- **Weights and measurements** on your label comply with local standard measures. It would be smart to reflect both volume and weight measurements of your product in U.S. and metric systems.
- **Labeling does not always need to be bilingual.** Ask if it is necessary to have bilingual packaging if you are targeting a particular population segment. Packaging can be your most important advertisement aside from communicating the essentials—ingredients, nutrition, Universal Product Code and size, preparation and expiration date. Emphasize your trademark while you are at it. Illustrations are acceptable so your customer knows what he or she is buying.
- **There is no significance in the number of units in a package.** Make sure the quantity of product in a package is not considered unlucky in the overseas market. Package quantities convey meaning in some markets. In the West, 7 is lucky and 13 is unlucky. In Japan, the number 4 is the sign of death. In China, 8 signifies prosperity.
- **The packaging material is cutting edge.** Your packaging needs to be the newest and best in the category. You may have to order packaging to cover domestic and foreign market demand.
- **You extend current product applications where possible.** Maybe living in a foreign country for a few months will shed light on how locals do things and what they need to live better. Ask simple questions about how time is spent and how products in your product category are used.

- **Electrical products can be used internationally.** If your products are domestic appliances, you may need to redesign them for plugs (types A and C)/outlets and voltages/frequencies used in your target market. You don't want to ship a product that can't be used in the target market.
- **You can handle warranties, guarantees, and service calls overseas.** You may want to establish service centers, telephone and fax numbers, addresses, and hours of operation to address customer contact needs and even identify what is not covered.
- **Environmental impact on your product is minimal to none.** Is there high humidity, high energy costs, poor water supply, extreme temperature, or poor infrastructure? All can affect product integrity in a new market.
- **Country of origin for your product is identified.** Check to determine if a certificate of origin is needed to accompany a standard invoice on international shipments.

As you can see, adapting your product to customer needs and legal requirements is no small proposition in terms of time and money. Determine the time and cost it takes for product adaptation and the likely return on investment. From there you can grow and expand your success.

What about Going Global with Services?

As countries grow richer, services tend to become the dominant sector of their economy. You have noticed that here at home. Looking at Asia, the service sector now accounts for more than half of the gross domestic production in newly industrialized economies such as Hong Kong and China. As of 2015, the service sector accounted for 69% of world output (GDP)^{xxii} and the global dollar value of commercial services exports reached \$4,754.6 billion.^{xxiii} In 2013, the value of international U.S. private service exports alone amounted to about \$64.8 billion.^{xxiv} These statistics demonstrate the increasing clout of services in the global economy and the United States.

Service exports usually offer original knowledge, superior know-how, great ideas, and value.

If you have marketed services in your home market, no doubt you are aware of their intangibility and the need to tailor them to the individual needs of your client, making it necessary to directly involve your client's participation and cooperation. These factors make marketing services difficult domestically and even more so internationally because you, as the service provider, must exercise interpersonal skills and cultural sensitivity. Nevertheless, exporting a service attracts customers because the service usually offers original knowledge, superior know-how, great ideas, and value. Disseminating that knowledge aggressively and at a profit worldwide is a winning formula for global success. With the rapid advance of technology, the Internet, and worldwide communications becoming faster, now is an ideal time to consider exporting your services.

The market is wide open to savvy service providers despite rampant protectionism in some markets and restrictions that target service firms going abroad. Sectors that were traditionally off-limits to foreigners are opening up in numerous countries. So just as with exporting products, you will need to research new markets for your service exports. Highly skilled, specialized services in sectors such as the following have high export potential:

- Travel and tourism.
- Transportation services.
- Architectural, construction, and engineering.
- Education and training services.
- Banking, financial, and insurance services.
- Entertainment.
- Information services.
- Professional business services.
- Legal and accounting services.
- Computer and data services.

To compete in foreign markets service, you should customize your service to the local market by identifying opportunities the culture of a particular market has to offer. You might set up a service offering that meets the cultural needs of that market, such as selling to the boss first. Authority-conscious employees will then realize it is acceptable to buy. Another approach involves standardizing and customizing the service. The core service can be enhanced with localized support features that cater to local market conditions. Last, you differentiate your service by offering benefits not offered by competitors and/or by lowering costs or offering premium products.

If you are just starting to export services, you might follow the path of the products you export. Many accounting and banking firms assist their international clients abroad. Smaller service exporters cooperate with manufacturers aiming to support those products in overseas markets. As with product exports, you will need to research the most likely new market and determine whether or not you need an export license by checking Export Administration Regulations^{xxv} (EAR) and the U.S. Bureau of Industry and Security.^{xxvi}

Determine Your Firm's Export Potential

Determining your product's export potential is much like working this issue at home and its importance cannot be overemphasized. For example, in most developed countries, information suppliers, like European Marketing Data and Statistics can provide you a current estimate of category volume and market share based on scanning technology similar to that you have seen collected by food stores and other merchandisers. Absent established data sources in foreign markets, you can generate your own estimate of foreign market size using alternative estimating techniques. Masaki Kotabe and Kristiaan Helsen^{xxvii} identify four methods to assess the size of the market for any particular product: method of analogy, trade audit, chain ratio method, and cross-sectional regression analysis. We'll examine only the first two since the other are overly complicated.

The first technique, the analogy method, selects a country at roughly the same level of economic development as the country of interest and for which the market size is known. The method is based on the relationship between demand for a product and an indicator of the demand for a similar product in both countries. For example, suppose Samsung wants to estimate the market size for computer monitors in Poland. For the base country, we take another Central European country, say Hungary, for which it knows the sales of computer monitors. Here we choose color TV sales as an indicator. So, in this example we assume that the ratio of a computer monitor to color TV ownership in Hungary and Poland is roughly equivalent and derive an estimate based on the following relationship:

$$\frac{\text{Computer Monitor Demand Poland}}{\text{Color TV Demand Poland}} = \frac{\text{Computer Monitor Demand Hungary}}{\text{Color TV Demand Hungary}}$$

or,

$$\text{Computer Demand}_{\text{Poland}} = \text{Color TV Demand}_{\text{Poland}} \left(\frac{\text{Computer Demand}_{\text{Hungary}}}{\text{Color TV Demand}_{\text{Hungary}}} \right)$$

Based on the following information,^{xxviii}

	Annual Retail Color TV (000s)	Computer Monitor Sales (000s)
Hungary	455	177
Poland	634	?

Inserting those numbers, we get an estimate of 246,600 units based on the following calculation:

$$\text{Estimate Computer Monitor Demand}_{\text{Poland}} = 634 \left(\frac{177}{455} \right) = 246.6$$

The critical part in using this estimating method is identifying a comparable country and a good surrogate measure.

An alternate approach, the trade audit, bases the market estimate size on local production and import and export figures for the product category. Here is the logic:

$$\text{Marker Size in Country A} = \text{Local Production} + \text{Imports} - \text{Exports}$$

Technically, you should adjust for in-country inventory levels, should you be able to obtain that information. The problem in relying on this method is the availability of data. It may be unavailable, inaccurate, even outdated so as not to be reliable. Be sure to examine and verify the quality of the data you use in your calculations.

The last two methods, chain ratio, and cross-sectional regression analysis, are a little more complicated and beyond the scope of this publication. Still, they are worth investigating as prospects for estimating market size. Even so, there is potential for a wide gap between the estimates these methods generate. Make sure you understand the nature of the numbers. You might even rely on cocktail napkin estimates and see how your estimates change based on changes in your underlying assumptions. You may even look for range estimates, that is, estimates with upper and lower limits that can be used in market simulation exercises that determine your company's bottom line under various situations.

Chain Ratio Method

The chain ratio method starts with a very rough base number as an estimate for the market size (e.g., the entire population of the country). This base estimate is systematically fine-tuned by applying a string (chain) of percentages to come up with the most meaningful estimate for total market potential.

To illustrate, consider a firm that makes baby monitors and is planning to expand into China and/or India. Baby monitor devices track the baby's breathing while the baby is asleep. If for some reason the baby's breathing stops, an alarm will go off. The company wants to focus on urban areas, which are easier to access than the countryside. For the base number, we start with the overall population. Using the chain ratio method, you can compute a rough estimate of market potential.

	China	India	
Base Number			
Total Population	1,207.40	921.5	A
Urbanization Rate	30.30%	26.80%	B
Birth Rates per 000s Population	365.8	247	$C = A \times B$
Market Potential Estimate	17.8	28.4	D
	6.5 min	7.0 min	$E = C \times D$

* *International Marketing Data and Statistics 1997*

Assessing growth potential in new markets requires some common sense, critical thinking, and analysis using the methods described above. Confirm your data inputs, review the results of your calculations, and then make an educated decision as to the best move to make.

Focusing on Foreign Market Risk

In 2015, there were 294,800 American companies identified as U.S. exporters, accounting for \$1,335 billion in exports of goods (of \$1.503 trillion total exports of goods, down from 305.2 thousand in 2014).^{xxix} You should be passionate about encouraging your business to get a footprint in foreign markets. Growing your business and developing additional competitive advantage requires looking beyond your national borders and it also means managing risk. If you operate a small- to medium-sized business in your home market, by definition you are a risk taker and you no doubt take steps to reduce risk. "The number-one risk for most small businesses is improper cash-flow management," says Scott Lovingood, CEO of The Wealth Squad, Inc., a small-business consultancy in Riceville, Tennessee. As a business owner, you have probably thought about your own illness and death as well as those of your employees. Other human risks are theft, fraud, and low employee morale, all of which are major risks businesses face in addition to older equipment and information technology risks.

To address the prospect of any risk, you manage, mitigate, or eliminate risk.

Externally, you face competition and market risk. In today's economy, competitors can be unrelenting and marketplace changes cause you to change your business. Competitors advertise sales; costs, like rent and floor space, fluctuate for your own business and your vendors. You may even lose employees to competitors and, possibly with them, valuable customers. You may even encounter risk in the business environment. Federal, state, and local laws will change. Weather and natural disaster can shut operations down for short periods or shutter the business.

To address the prospect of risk, your objective is to manage, mitigate, or eliminate it. Similarly, aside from evaluating market potential of target countries, there are risks to be evaluated in exporting to particular countries. Not recognizing foreign risk or implementing mechanisms that mitigate them can impact overall company performance and profitability. Such risk can include country and political risk, legal and credit risk, currency exchange risk, transfer and nonperformance risk, and lastly, the risk associated with social and geographic issues. These risks can be overcome with the same prudence you deal with risk in serving your domestic customers. You can assess risk annually, depending on the market, and establish an internal risk management system that monthly identifies, assesses, and mitigates them for target markets, even individual customers. A risk management system monitors these risks and hedges against them should risk potentials change.

Globalizing your business offers your company tremendous potential for business expansion. Unlocking that potential is a task that has become increasingly complex given the increased connectivity and interrelation of countries and companies. In its 2014 survey^{xxx} designed to offer organizations the insights necessary to compete in this increasingly complex operating environment, Aon PLC, A global provider of risk management and insurance services, collected the response of 1,418 respondents at public and private companies of all sizes and industry sectors around the world. Aon's 2015 top risk list for global business includes the following:

1. **Damage to reputation/brand** – Reputation, the sum of many intangible parts, among them a good public image, a reputation for honesty, quality products and services, good management, and social responsibility, exerts a direct impact on a company's bottom line, should the tools used to manage company reputation be ineffective. The immediate case in point is the self-inflicted Volkswagen (VW) scandal in which VW admitted to circumventing the 2.0-liter diesel engine emissions control system in about 550,000 vehicles sold in the United States since 2008. VW's most urgent tasks are to win back U.S. Auto consumer trust, setting aside the cost of vehicle recall,

paying a \$14.7 billion Environmental Protection Agency settlement, and addressing possible legal action by car owners and shareholders. It is unlikely a small- to medium-sized business will have to overcome a self-inflicted wound of this magnitude, but no business can afford an ethical “escape” damaging its reputation/brand.

2. **Economic slowdown/slow recovery** – The World Bank^{xxxix} and International Monetary Fund^{xxxix} confirm the overall health of the global economy is improving for both advanced economies and emerging markets; however, businesses, large and small, must take economic slowdowns and slow recovery into account in their financial planning.
3. **Regulatory/legislative changes** – Avoiding the risk/cost of non-compliance to home and customer country regulatory and legislative changes requires establishing a compliance team responsive to home and customer country regulatory enforcement.
4. **Increasing competition** – Competitors are emerging across the global marketplace. Avoiding this risk requires constant innovation, differentiating, and promoting your company brand(s).
5. **Failure to attract or retain top talent.** Attracting and retaining top talent is a key competitive factor in the global marketplace, given an aging workforce, the entry of millennials to the global workforce, and the impermanent relationship today between employees and their employers. To avoid this failure, aggressively recruit talent with skills, and offer training and opportunities aligned to the strategic and competitive needs of your firm and its place in the global marketplace.
6. **Failure to innovate/meet customer needs** – Remember Blockbuster Video,^{xxxiii} Borders Books,^{xxxiv} Blackberry,^{xxxv} and Polaroid.^{xxxvi} Each of these firms, for that matter the entire publishing industry, failed to innovate and have been overcome by innovation and customer needs that outgrew them—Blockbuster by Netflix,^{xxxvii} Borders Books by the Amazon Kindle e-readers and the Barnes and Noble Nook, Blackberry by the iPhone, Polaroid by digital cameras, and the publishing industry by electronic print.^{xxxviii} The global marketplace has changed and technology is a key to disruptive and strategic innovation.^{xxxix} To avoid the risk of failing to

innovate, firms competing in the global marketplace must create a business culture that is agile, innovative, and responsive to their customer base.

7. **Business Interruption and Supply Chain Risk** – Today's supply chains rely on "just-in-time" and "lean manufacturing" as standard practices. This reliance combined with global sourcing and natural and man-made disruptions has led to an increase in business interruptions. Avoiding the risk of business disruption requires continuous planning and developing options that mitigate threats to continuous operations.
8. **Third-party liability** – Refers to the legal liability of one party to another for claims of bodily injury, loss or damage caused to a third party as a result of the action, inaction, or negligence from acts committed by employees. To avoid this risk, a business firm can, among other steps, improve health and safety standards, establish assisted return-to-work programs, even the extreme of discontinuing the manufacture of certain products or performance of services that might lead to being sued.
9. **Cyber-risk** (computer crime/hacking/ viruses/malicious codes) – Over the last couple of years we have seen high-end data breaches of private industry, for example, Target Corporation and Sony Pictures and government—the U.S. Office of Personnel Management, clearly highlighting how vulnerable retailers, educational facilities, government contractors, and other organizations are to cyber-crime. To avoid this risk avoidance, a firm can implement a number of steps detailed in ISO 27001,^{xi} Information Security Management and/or ISO 27002,^{xli} Information technology—Security Techniques ISO 27002 in addition to taking out insurance designed to cover this exposure.
10. **Property Damage** – Natural hazards will cause substantial property damage and disruption to businesses developed with costly machinery and new technology that are difficult to replace. A firm can avoid this risk by determining the potential of property damage to its facilities, training on-site staff, and developing business continuity plans.

With a little reflection, you may agree with this listing, however, Aon PLC's top risk listing excluded issues that can't be overlooked by a firm entering the global marketplace. Let's take a closer look at the following avoidable hazards:

1. **Country and political risk** – countries experiencing social unrest and disorder, such as Venezuela, will cause drastic changes in a business environment leading to the prospect of expropriation, confiscation, campaigns against foreign goods, mandatory labor benefits legislation, kidnapping and terrorist threats, currency devaluation, And increased taxation. These risks can be avoided by educating yourself and your firm about your target market, its government, law, and politics prior to investing time, effort, and funds in a particular market.
2. **Differences in legal systems** before you negotiate an international sales contract, ask for advice on the contractual/legal implications from an attorney who specializes in international contracts. You will need to address issues such as:
 - The definition of terms of agreement (e.g., Incoterms 2010), the standard in international contracts.
 - Limiting the agreement to terms of the contract.
 - Specific description of goods and/or services addressed in the sale.
 - The terms and mode of payment – method of payment (cash in advance, open account, consignment, sight/ time/date draft, letter of credit, etc.).
 - The “retain the property until payment” clause, that is, the right to retain possession and title until payment is received.
 - Force majeure (acts of God and unforeseen occurrences).
 - Dispute resolution – the place, language, Assumption of costs, the form of resolution, (e.g., Arbitration and choice of arbitrators).
 - Applicable law and jurisdiction (e.g., common or code law and that of the specific country).
 - Fees and charges – including what you are responsible for and what your customer is responsible for.

3. **Credit risk** – involves assessing the likelihood that your foreign customer will be unable to pay its debts. There may not be in-country credit reporting sources that enable you to determine a customer's credit worthiness; thus, you may have to resort to alternate sources of credit information.
4. **Currency exchange risk** – arises from the potential of unexpected change in exchange rates that will alter the value of a U.S. dollar payment. To avoid this prospect, it is best to quote and sell in your home country currency, if not the U.S. dollar, preferably one that is heavily traded in financial markets. If the specifics of your transaction disallow quoting in U.S. dollars, it is best to consider hedging, a way to minimize or eliminate currency exchange risk. Commercial banks and regulated foreign exchange brokers^{xliii} are among the best foreign exchange service providers offering a number of techniques for managing exchange rate exposure that include:
 - *Forward Contracts* – the most popular option used by U.S. firms when they have an agreement to pay (receive) a fixed amount of foreign currency at some date in the future. In most currencies, firms can obtain a contract today that specifies a price at which it can buy (sell) the foreign currency at the specified date in the future.
 - *Futures Contracts* – contracts equivalent to forward contracts in function and have standardized and limited contract sizes, maturity dates, and initial collateral.
 - *Money Market Hedge* – a form of financing for the foreign currency transaction in which a firm that has an agreement to pay foreign currency at a specified date in the future can determine the present value of the foreign currency obligation at the foreign currency lending rate and convert the appropriate amount of home currency, given the current spot exchange rate.
 - *Options* – the second most preferred hedging instrument, are contracts that have an up-front fee and give the owner the right, but not the obligation, to trade domestic currency for foreign currency (or vice versa) in a specified quantity at a specified price over a specified time period.

■ **Note** The best way to get started is to find a broker you trust and make sure you fully understand how a contract works before entering into it.

5. **Transfer and nonperformance risk** – The risk that a local currency cannot be converted into the currency that a debt is denominated in due to a currency not being widely traded. Thus, it is best to trade in a heavily traded currency, such as the U.S. Dollar, Japanese Yen, etc. Nonperformance risk is the risk that your customer will not fulfill its payment obligation.
6. **In-transit risk** – in looking to export, you not only have to make sure the shipment departs and arrives on time and at the right place, with handlers there to assume the responsibility for the goods once they arrive at a foreign port. You must also take into account the possibility of damage, loss, and theft. Solid logistical planning, insurance, and the services of a respectable freight forwarder and shipping companies are, therefore, a must to ensure the safety and timely arrival of your shipments.
7. **Social and geographic issues** – refers to the probability of financial loss trading in a foreign market. The best risk avoidance measure is market research and knowing your customer. Confer with home country government and banking sources to learn more.

The risks identified are some of the challenges that you and your firm need to address to ensure the viability of your firm's entrance and continued success in the global marketplace. Expanding the management and practice of risk management in global trade are feasible just as they are in home markets! There is really nothing to fear about exporting to foreign markets. It's really about thorough research and planning from your firm's response to a request for pro forma invoice through entry into a contract, getting paid, contract close-out, And record retention!

Your Global Market Entry Plan

We can choose a future where we export more products and outsource fewer jobs. After a decade that was defined by what we bought and borrowed, we're getting back to basics, and doing what America has always done best: We're making things again.¹

—Barack Obama, former president of the United States

Having isolated a target market, it is equally important that you prepare a global marketing plan that, like your domestic marketing plan, details the target market's needs/wants and determines the actions and factors that enable your business to satisfy them better than any competitor. As you know from producing your domestic market plan, the key is a disciplined, but logical planning process, that allows you to define issues, answer questions correctly, and make correct decisions. The most frequently cited shortcomings of global marketing plans, according to marketing executives, are a lack of realism, insufficient competitive analysis, and a short-run focus. Your plan needs to address long-term operations in a foreign market.

The key is a disciplined, but logical planning process, that allows you to define issues, correctly answer questions, and make marketing decisions.

How then does a global marketing plan differ from a domestic marketing plan? What does it contain beyond the following typical domestic marketing plan items?

1. **Marketing background** – the information base from which the marketing plan is developed.
2. **Marketing plan** – direction for execution in the marketplace.
3. **Marketing execution** – the actual interaction with the target market.
4. **Marketing evaluation** – measurement of the level of success of the plan's execution.

Figure 10-1, Domestic vs. International Marketing Plans, compares a domestic versus global marketing plan detailing elements you are familiar with—problems/ opportunities, sales goals, marketing objectives, competitive analysis, and a description of the target market, etc., against key differences for a global marketing plan. Among them is a thorough cultural analysis, a competitive analysis, the orientation of the marketing mix tools (product, promotion, place, and pricing) toward international customer requirements, competitive analysis, and government participation. Consult the Central Intelligence Agency's (CIA) World Factbookⁱⁱ and the 2017 Index of Economic Freedomⁱⁱⁱ for additional information.

	Domestic	International
Marketing Background	<ol style="list-style-type: none"> Executive Summary Introduction The Business Review Problems/Opportunities Sales Objectives Target Markets and Marketing Objectives <ul style="list-style-type: none"> Target market (specific description of the market) Expected market share or market penetration rate Expected sales in dollar volume Competitive Analysis Plan Strategies - Positioning & Marketing Communication Goals Tactical Marketing Mix Tools <ul style="list-style-type: none"> Product <ul style="list-style-type: none"> Product differentiators or competitive advantage Packaging Support Services Promotion <ul style="list-style-type: none"> Major message thrust Advertising—media mix, reach, costs Sales Promotion—forms, objectives, and costs Personal Selling Miscellaneous promotional methods Place (Distribution) Macro 	<ol style="list-style-type: none"> Executive Summary Introduction The Business Review Problems/Opportunities Sales Objectives Target Markets and Marketing Objectives <ul style="list-style-type: none"> Target market (specific description of the market) Cultural Analysis Expected market share or market penetration rate Expected sales in dollar volume Competitive Analysis Plan Strategies - Positioning & Marketing Communication Goals Tactical Marketing Mix Tools <ul style="list-style-type: none"> Product <ul style="list-style-type: none"> Product differentiators or competitive advantage Packaging Support Services Promotion <ul style="list-style-type: none"> Major message thrust Advertising—media mix, reach, costs Sales Promotion—forms, objectives, and costs Personal Selling Miscellaneous promotional methods Place (Distribution) Macro <ul style="list-style-type: none"> Port Selection <ul style="list-style-type: none"> Origin Port Destination Port carrier) Documentation Required <ul style="list-style-type: none"> Bill of Lading Dock Receipt or Air Bill Commercial Invoice Shipper's export declaration Statement of Origin Place (Distribution) Micro <ul style="list-style-type: none"> Warehousing Needs
	<ol style="list-style-type: none"> Place (Distribution) Micro <ul style="list-style-type: none"> Warehousing Needs Retailers—Type of retail stores, scale of operation and markup Wholesalers—Type of wholesalers, scale of operation and markups Pricing 	<ol style="list-style-type: none"> Place (Distribution) Micro <ul style="list-style-type: none"> Retailers—Type of retail stores, scale of operation and markup Wholesalers—Type of wholesalers, scale of operation and markups Import/Export Agents Pricing <ul style="list-style-type: none"> Handling Expenses (pier charges, wharfage fees, loading/unloading charges) Customs duties Import taxes Wholesale and Retail Markups Company's gross margin Retail price Methods of Payment Government Participation
Marketing Plan	<ol style="list-style-type: none"> Marketing Plan Budget and Calendar <ul style="list-style-type: none"> Annual profit and loss statement (first and fifth years) Execution Evaluation 	<ol style="list-style-type: none"> Marketing Plan Budget and Calendar <ul style="list-style-type: none"> Annual profit and loss statement (first and fifth years) Execution Evaluation

Figure 10-I. Domestic vs. International Marketing Plans

The cultural analysis should thoroughly describe the country in which your product is to be marketed, selecting pieces of information that show how or why your product is suitable for the country's culture. You may or may not include:

- **Country's relevant history** and/or recent events.
- **Geographical Setting:** location, climate, and typography.
- **Description of Political System:** political structure and parties, stability of government.
- **Population and Demographics:** total population size, distribution.
- **Economic Statistics and Descriptions:** gross national product, personal income per capita, average family income, inflation rate, government social programs, labor force, principal industries, foreign investment, transportation modes and availability, communication systems, international trade statistics, description of religion and its impact on daily life, language, description of daily life and lifestyles, types of housing, recreation/sports and leisure activities, impact of technology, availability and impact of media, availability of channels of distribution.

Your competitive analysis needs to describe the competitive situation you face in your target global market:

- **Compare and contrast your product with competitors' products:** competitive brands (domestic and foreign) available in the market (features, packaging, pricing, promotion and advertising methods used, relative market shares and strengths enjoyed in the market).
- **Estimated annual industry-wide sales** (or volume) of all brands.
- **Market Conditions Faced:** forms of available transportation and communication in the region, consumer buying habits—product feature preferences, use patterns, and shopping patterns,^{iv} distribution of similar or competitive products—typical retail outlets used and sales by other middlemen, advertising and promotion (media that can be used to reach target market, sales promotions customarily used in this product category (samples, coupons, etc.), pricing—customary markups and types of discounts available for this kind of product.

Customized to your target market(s), your global marketing mix must take into account:

- **Your product strategy:** differentiation, packaging, and support services.
- **Your pricing strategy:** handling expenses (pier charges, wharfage fees, loading/unloading charges), customs duties, import taxes, wholesale and retail markups, company's gross margin, retail price, methods of payment (cash in advance, open account, consignment, sight/time/date draft, letter of credit, etc.). All your costs must be accounted for to identify cost and arrive at a price the market can afford and profit level you can accept.
- **Your distribution strategy (macro):** port selection (origin and destination), delivery mode selection—specify your mode of choice and discuss the advantages/disadvantages of each mode for reaching your country (railroad, air carrier, ocean carrier, motor carrier), documentation required (bill of lading, dock receipt or air waybill, commercial invoice, certificate of origin, electronic export information, shipper's letter of instruction [See Appendix A for a description, consult a logistics professional for use and completion of these and other exporting forms]).
- **Your distribution strategy (micro):** distribution channel, warehousing needs, retailers—type of retail stores, the scale of operation (large or small), and retail markup, wholesalers—type, the scale of operation, and wholesale markups, import/export agents.

Last, but not least, your international marketing plan must also take into account government participation, agencies at home and in the target market, as well as the regulations you must follow.

You want to be open minded and innovative, but also methodical and consistent as you prepare and write your marketing plan. As you prepare the background section and the marketing plan itself, have separate sheets of paper handy with headings of the problems, opportunities, and each step of the marketing plan under which you can jot down relevant ideas as they occur to you. Evaluate the application of each idea as you actually write each section of the marketing plan to which it pertains.

By this disciplined approach to crafting your global marketing plan, you can avoid the risk of losing sales, minimize cost, and maximize profits. Take note of the difference between a domestic and global marketing plan. There are significant differences that require research and cannot be overlooked. You have generated a marketing plan here in your domestic market. It is equally doable and important for an overseas market as well.

Complying with the Law at Home and Abroad

*We're actually making stuff in America now. We're exporting stuff.
We're inventing things.*

—Amy Klobuchar, U.S. senator from the state of Minnesota

Going into global business puts you and your firm in the position of having to comply with a number of legal considerations that affect how you acquire business, contract, and deliver products and services to your global customer. Many legal considerations have to do with U.S. export regulations and some with foreign government import regulations. Complying with U.S. export-related regulations is paramount for U.S. firms. U.S. export-related regulations come from several key sources that include the Export Administration Regulations, International Traffic in Arms Regulations (ITAR), the Anti-diversion Clause, Anti-boycott Regulations, and the Foreign Corrupt Practices Act. At first glance, you might think complying with the law is an overwhelming global business requirement, but not really, and it's essential to generating a foreign income stream.

The Export Administration Regulationsⁱ (“EAR”)ⁱⁱ administered and enforced by the U.S. Commerce Department’s Bureau of Industry and Securityⁱⁱⁱ (BIS) and published by the Office of the Federal Register,^{iv} regulate export and re-export of U.S.-origin “dual-use” goods, software, and technology. “Dual-use” goods are those items that have civil applications as well as terrorism and military or weapons of mass destruction (WMD)-related applications.^v The specific items subject to the export control restrictions under the EAR are identified on the Commerce Control List^{vi} (“CCL”). In many cases, your exports may require an export license, so it is best to comply with the regulations even when the BIS determines there is “No License Required” (NLR).^{vii} The EARs do not control all goods, services, and technologies you contemplate exporting. The U.S. Department of State controls defense articles, for example, aircraft, etc., and defense services, for example, training in the use of defense articles. A list of other agencies^{viii} involved in export controls can be found in Supplement No. 3 to Part 730,^{ix} General Information. To determine whether or not you need a Commerce Department export license, determine what you are exporting, where are you exporting, who will receive your item, and what will your item be used for. You can learn more about the EAR via BIS training seminars about export control policies, regulations, and procedures delivered by experienced export administration and regulatory policy specialists, engineers and enforcement personnel via an online training room^x and receive updates via e-mail notification^{xi} on seminars delivered countrywide. See an Introduction to the Commerce Departments Export Controls^{xii} for a primer on this important topic.

At first glance, you might think complying with the law is an overwhelming global business requirement, but not really.

If you plan to export items and services designed for military application, you must comply with the International Traffic in Arms Regulations^{xiii} (ITAR)^{xiv} administered by the U.S. State Department’s Directorate of Defense Trade Controls^{xv} (DDTC). The ITAR regulates exports from the United States and re-exports from abroad of U.S.-origin “defense articles,”^{xvi} and “defense services,”^{xvii} as well as certain temporary imports of foreign-made defense articles and “brokering” activities. These items and services are subject to extensive export controls. In addition, the full text of the ITAR (22 C.F.R. Parts 120 to 130), including the United States Munitions List^{xviii} is posted there. The DDTC offers and you should read its “Getting Started in Defense Trade”^{xix} as a primer to this sensitive, important, and complicated field of exporting. In examining the ITAR, you will see a list of Parts^{xx} to acquaint yourself with. Many exporters of defense articles and services employ export control specialists

well versed in obtaining the export licenses and interfacing with government personnel. Noncompliance with the ITAR can result in revocation of export privileges, imposition of financial penalties, even criminal penalties. The U.S. government is serious about compliance in this arena. You also need to know obtaining appropriate export licenses takes time so apply early to ensure you have an export license that supports the contract delivery schedule commitment you have made to your customer.

Anti-diversion Regulations

The U.S. government ensures U.S. exports are shipped to legally authorized destinations, thus, Department of Commerce Bureau of Industry and Security^{xxi} requires a Destination Control Statement^{xxii} required by the Export Administration Regulations^{xxiii} (EAR) and International Traffic in Arms Regulations^{xxiv} (ITAR) that the goods in your shipment are destined for their ultimate destination abroad, specifically on the commercial invoice and bill of lading you prepare and within the text of licensing, manufacturing, and distribution agreements. The Destination Control Statement is required for all exported items listed on the Commerce Control List^{xxv} that are not classified as EAR99^{xxvi} or are eligible for an export license exception. Inserting the Destination Control Statement on every commercial invoice and bill of lading protects you, if the goods you sell to a domestic customer are unexpectedly exported from the United States. At a minimum, your Destination Control Statement should read as follows:

These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations.

Should you exclude the Destination Control Statement for exported items listed on the Commerce Control List, you could be subject to the EAR Enforcement and Protective Measures^{xxvii} that impose civil (monetary) and criminal (jail time) penalties, denial of export privileges, even exclusion from practice—should you be an attorney, accountant, consultant, freight forwarder. Your best practice is to exercise due diligence (know) your customer.

Anti-boycott Regulations

As is the case with anti-diversion regulations, the U.S. government per AR 760,^{xxviii} opposes restrictive trade or boycotts^{xxix} “fostered or imposed by foreign countries against other countries friendly to the United States or against any United States Person^{xxx} to report receipt of those requests to BIS and whether they took the requested action.” Historically, anti-boycott regulations in the United States addressed withholding support from Israeli business based on a 1948 Arab League agreement requiring boycott of trade with Israel and companies that trade with Israel. EAR 760 also prohibits employment discrimination based on nationality, race, or religion detailing criminal and civil penalties in accordance with EAR 760 Antiboycott Penalty Guidelines^{xxxi} and implementing the foreign policies of other countries when those policies differ from U.S. policy.

The Foreign Corrupt Practices Act^{xxxii} of 1977 (FCPA) was enacted in response to the U.S. government’s discovery of widespread bribery^{xxxiii} of foreign officials^{xxxiv} by U.S. companies to win or retain business. The law, applicable to all U.S. persons and certain foreign issuers of securities, has both anti-bribery and accounting provisions that prohibit payments to foreign officials and require U.S. companies to make and maintain books and records that accurately and fairly reflect the transactions of the corporation and to develop and maintain an adequate system of internal accounting controls. Knowingly falsifying those books and records and knowingly failing to implement internal accounting controls are also addressed by the law’s accounting provisions. Both the Securities Exchange Commission and Department of Justice share enforcement authority with involvement of the Internal Revenue Service, the Department of Homeland Security, and the Federal Bureau of Investigation. As you can see from these wide-ranging sources of enforcement, the U.S. government is serious about enforcing this law, given its record of enforcement actions^{xxxv} that continues to this day.

Specifically, the anti-bribery provisions prohibit offering, paying, promising to pay, or authorizing the payments of money or offering, giving, or promising to give anything of value to a foreign official to influence him/her in their official capacity to do an act or omit an act to secure an improper business advantage in obtaining or retaining business. Under the FCPA, there is no statute of limitations for the anti-bribery provisions.^{xxxvi} Penalties for violating the FCPA by corporations, other business entities (such as distributors and representatives), and individuals can be severe with fines and imprisonment for up to 20 years for criminal violation, even suspension or debarment from contracting with the federal government, and suspension or revocation of export privileges. Should you elect to sell or distribute your products via a distributor or representative agreement, ensure the agreement’s provision includes a termination clause and ensure you keep a detailed record of the

distributor/representative's performance as some countries' requirements for termination are burdensome. Ethics provisions should also be incorporated into the agreement as it is important to ensure that business partners agree to uphold U.S. laws, not engage in either bribery or "kickback" payments. The United States is not alone in its interest in eliminating corruption in foreign transactions. It is among the 35 Organization for Economic Development^{xxxvii} (OECD) countries and 6 non-OECD countries—Argentina, Brazil, Bulgaria, Colombia, Russia, and South Africa—in 1997 that have adopted the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions.^{xxxviii}

You, your staff, and your firm should consult an attorney when confronted with FCPA issues and pose specific questions by datafax to the Department of Justice Foreign Corrupt Practices Act coordinator at (202) 514-7021, viewing the government's Transparency and Anti-bribery Initiatives^{xxxix} website and becoming knowledgeable about "Red Flags"^{xl} for possible violations of key U.S. laws for companies exporting and operating overseas.

You already comply with government regulations in doing domestic business in such areas as human resources, taxation, etc. While it might cost more money to comply with all of these regulations, don't get discouraged. The increase in sales volume has more than enough profit potential to satisfy the cost of compliance. Complying with export regulations is just a fact of doing business globally. Both tasks are within your capabilities! Consult with specialists as needed.

U.S. Foreign Trade Agreements

Free trade agreements, to which the United States is a party, actually help U.S. business more easily compete in foreign countries with which the agreement is struck. They level the playing field by either reducing or eliminating tariffs, improving intellectual property rights and protection, and opening government procurement opportunities. They also eliminate inconsistent customs procedures; improve and reduce burdensome paperwork; minimize risks in foreign markets by providing certainty and predictability for U.S. small-business owners and investors; and importantly, promote the rule of law so that small businesses know what the rules are and that they will be applied fairly and consistently.

The **North American Free Trade Agreement**^{xli} (NAFTA), most prominent in the minds of North American exporters, was negotiated among the United States, Mexico, and Canada; signed in 1992; and took effect on January 1, 1994. The agreement eliminates previously imposed barriers to cross border investment and movement of most goods^{xlii} and services that originate between its partners over a maximum transition period of 15 years. NAFTA partners Canada and Mexico are the top two destinations for U.S.

small- and medium-sized exporters for whom there are many opportunities^{xliii} to engage in cross-border trade. Trilateral trade among its partners amounts daily to \$3.5 billion.^{xliiv} In the 2016 U.S. election cycle, the agreement became a hot topic as its impact and support of U.S. jobs has come under fire and now, Donald Trump, as president, via the U.S. Trade Representative, has notified Congress of the president's intent to begin talks with Mexican and Canadian leaders to support higher paying jobs and grow the U.S. economy. How discussions unfold will determine the way forward to improving the 23-year-old agreement struck before the emergence of the Internet and e-commerce, including if piecemeal reforms are possible or whether or not it will require starting over. Regardless of the pros and cons, it remains the current law by which you can ship goods and perform services for cross-border partners in North America.

NAFTA is not the only foreign trade agreement the United States has entered into. The United States has free trade agreements in the following regions with the following countries.

Central American and the Caribbean

Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua fall under the **Dominican Republic-Central America-United States Free Trade Agreement**^{xlv} (CAFTA-DR); and Panama is under the **United States-Panama Free Trade Agreement**.^{xlvi}

The Central America-United States Free Trade Agreement^{xlvii} was signed into force March 1, 2006. U.S. goods exports to CAFTA-DR markets (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic) have demonstrated impressive growth. Though each country represents a smaller market (2015 U.S. goods exports: Dominican Republic: \$7.1 billion; Costa Rica, \$6.1 billion; Guatemala: \$5.9 billion; Honduras: \$5.2 billion; El Salvador: \$3.3 billion and Nicaragua: \$1.3 billion), taken together these countries offer substantial opportunities for U.S. exporters with key opportunities for importing the following:

- Petroleum products;
- Machinery;
- Electrical/electronic products;
- Cotton yarns;
- Plastics;
- Motor vehicles;
- Paper products; and
- Medical instruments.

The U.S. International Trade Administration reports there's no better time to explore opportunities in Central America and leverage CAFTA-DR to join the U.S. export boom to the region!

The **United States-Panama Free Trade Agreement**^{xlviii} went into effect on October 31, 2012, guaranteeing American access to one of the fastest growing economies in Latin America. A 0% percent tariff is a competitive advantage for U.S.-made goods with some 30% market share of Panama's imports opening export opportunities on industrial goods such as computers and Information Technology (IT) equipment, agricultural and construction products, medical and scientific equipment, pharmaceuticals, and environmental products. Agricultural product exporters will find a market for high-quality beef, frozen turkeys, sorghum, soybeans, almost all fruit and fruit products, wheat, peanuts, whey, cotton, and many processed items.

South America

Chile, under the United States-Chile Free Trade Agreement^{xlix}, Colombia, under the United States-Colombia Free Trade Promotion Agreement,ⁱ Peru, under the United States-Peru Trade Promotion Agreement.ⁱⁱ

The **United States-Chile Free Trade Agreement**^{lii} entered into force in 2004, and U.S. investments in Chile have grown at comparable rates due to a transparent, rules-based business environment. Chile is the 4th largest export market in Latin America for U.S. exports and the 22nd largest in the world. Over 15,000 U.S. firms currently export to Chile, 80% of which are U.S. SMEs. The United States is the leading foreign investor in Chile, accounting for 24.2% of foreign direct investment (FDI) that spans all industrial sectors. Opportunities exist for U.S. Agricultural equipment exporters willing to pursue them.

The **United States-Colombia Free Trade Agreement**. In the services market, this accord, entered into effect on May 15, 2012, opens Colombia's entire services sector. Colombia agreed phase-out market restrictions in cable television. Colombia also agreed to provide improved access for U.S. suppliers of portfolio management services. Top U.S. exports include wheat, corn, cotton, soybeans, and corn gluten feed. The U.S.-Colombia trade agreement also eliminates duties on almost 70% of U.S. farm exports including wheat, barley, soybeans, soybean meal and flour, high-quality beef, bacon, almost all fruit and vegetable products, peanuts, whey, cotton, and the vast majority of processed products.

The **United States-Peru Trade Promotion Agreement**.^{liii} Presidential Proclamation 8341, dated January 16, 2009, and published in the Federal Register on January 22, 2009 (74 FR 4105), implemented the U.S.-Peru Trade Promotion Agreement (PTPA) for goods entered or withdrawn, from warehouse for consumption on or after February 1, 2009. Under the

agreement, U.S. consumer and industrial product exports—such as agriculture and construction equipment, auto parts, information technology equipment, medical and scientific equipment, and forest products—are duty-free. Tariffs are phased out on such U.S. farm products as high-quality beef, cotton, wheat, soybeans, soybean meal and crude soybean oil, apples, pears, peaches, cherries, almonds and many processed food products, including frozen fries, cookies, and snack foods. Peru has agreed to dismantle barriers on services and investments that have traditionally been in place, giving market access to U.S. firms in such services as telecommunications; banking, insurance, and securities; distribution services such as wholesale, retail, and franchises; express delivery services; computer and related services; audiovisual and entertainment services; energy services; transportation services; construction and engineering services; tourism; advertising services; professional services such as architects, accountants, and engineers; and environmental services.

Australia

The United States-Australia Free Trade Agreement^{liv} went into effect January 1, 2005. For companies with the right products that are willing to market and price competitively, Australia also presents opportunities. Australia exports meat to its Asian trading partners, in particular, FTA partners China, Japan, and Korea, and U.S. exports of equipment for raising livestock—as well as mowers and other power equipment did well in 2016.^{lv}

Asia

In Asia, the United States has free trade agreements with Korea, under the United States-Korea Free Trade Agreement^{lvi}; and Singapore, under the United States-Singapore Trade Agreement.^{lvii}

Under the **United States-Korea Free Trade Agreement**^{lviii} effective on March 15, 2012, almost 80% of U.S. exports to South Korea of consumer and industrial products can be imported duty-free. Nearly 95% of remaining tariffs were eliminated within 5 years after that date, and most remaining tariffs were eliminated within 10 years. Additionally, nearly two-thirds of all U.S. exports of agricultural products to South Korea became duty-free starting March 15, 2012.

U.S. businesses, under the **United States-Singapore Trade Agreement**^{lix} effective since 2004, are well positioned to assist in Singapore's development through technologies and services in the energy, environment, infrastructure, health care, and information technology sectors. Bilateral trade between the United States and Singapore reached US\$46.7 billion in 2015, a growth that has been enhanced thanks to the success of this free trade agreement.

Middle East/North Africa

In the Middle East/ North Africa, the United States has free trade agreements with Bahrain, under the United States-Bahrain Free Trade Agreement;^{lx} Israel, under the United States-Israel Free Trade Agreement;^{lxi} Jordan, under the United States-Jordan Free Trade Agreement;^{lxii} Morocco, under the United States-Morocco Free Trade Agreement;^{lxiii} Oman, under the United States-Oman Free Trade Agreement.^{lxiv}

The **United States-Bahrain Free Trade Agreement** entered into effect on August 1, 2006. Services account for roughly 50% of Bahrain's gross domestic product and its services sector provides many business opportunities for U.S. firms. Bahrain^{lxv} has a very progressive banking sector and the country is considered the banking center of the Middle East. Opportunities for trade with U.S. companies exist in Infrastructure/Oil & Gas Services, defense, and civil aviation. Bahrain is also in the process of overhauling its finance and banking laws to leverage its expertise in financial services and Islamic financing to position itself as a regional Financial Tech hub.

2005 year marks the 20th year anniversary of the **United States-Israel Free Trade Agreement**. With the exception of agriculture products, the United States-Israel FTA has eliminated nearly all tariffs on trade and administrative import licensing requirements between the two countries. In order for U.S. exporters to qualify for preferential access to the Israeli market under the United States Free Trade Agreement, a special certificate of origin must accompany all shipments from the United States to Israel. American exporters are encouraged to qualify for preferential tariff treatment and to obtain, when necessary, a certificate of non-manipulation^{lxvi} for transshipments. Leading sectors for U.S. exports include aerospace, automotive after-market parts and equipment, educational services, energy, health care technologies, and semiconductors.

The **United States-Jordan Free Trade Agreement**, fully implemented on December 17, 2001, eliminated duties and commercial barriers in goods and services. Under the FTA, all textile, apparel, footwear, and travel goods trade between the United States and Jordan is duty-free, provided that such goods meet the Agreement's rules of origin. Duty-free status^{lxvii} and tariff staging are listed by HS number in the Jordanian FTA tariff schedule.^{lxviii} Each line item in the Jordanian FTA tariff schedule is assigned a letter code that indicates the staging by which the duty for each product was eliminated. See Annex 2.1 (Tariff Elimination)^{lxix} of the U.S.-Jordan FTA for more details. Duty elimination for qualifying Jordanian products imported into the United States may be found in the U.S. FTA Tariff Schedule.^{lxx} In order to take advantage of the duty elimination, products must qualify as "originating" goods under the terms of the agreement. In general, the product must have sufficient U.S. or Jordanian content or processing to meet the criteria. The FTA's rules of origin are

not substantially different from standard rules of origin. For U.S. goods to qualify for duty-free treatment in the Jordanian market, they must satisfy the following requirements:

- Goods must be made entirely in the United States.
- If any third-country materials are used, they must be “substantially transformed” by manufacturing or processing into a U.S. product.
- Goods must contain at least 35% U.S. content. (Note: If this product also has Jordanian content, up to 15% of the Jordanian content can count toward the requirement of 35% US content.)
- Goods must be imported into Jordan directly from the United States.

The **United States-Morocco Free Trade Agreement** became effective on January 1, 2006. Most industry sectors are quite active in Morocco, but the best opportunities for U.S. small- to medium-sized vendors include the following sectors:

- IT
- Safety and Security
- Renewable Energy
- Franchising
- Civil and Defense Aviation
- Environmental Technologies
- Infrastructure Projects

Exports to Morocco from the United States totaled \$1.6 billion, led by fuel oil; aircraft and aviation parts; and machinery, falling by 24% year on year from 2014. The decrease in large part is due to a reduction in the purchase cost of fuel oil (1 billion USD). There are roughly 150 U.S. firms operating in Morocco. Multinationals such as Fruit of the Loom, Kraft, Kohler, DuPont, Lear, and International Paper, as well as smaller companies,^{lxix} have established their presence in Morocco supporting their exports to the European Union.

The **United States-Oman Free Trade Agreement** entered into force on January 1, 2009. Companies interested in doing business in the Sultanate of Oman should contact the U.S. commercial attaché at the U.S. Embassy. SMEs typically make up two-thirds of the companies that National U.S.-Arab Chamber of Commerce (NUSACC).^{lxxii} The NUSACC takes on trade and investment missions to investigate the following promising sectors:

- Manufacturing
- Logistics
- Mining and minerals
- Health care
- Oil and gas
- National defense

Details of these free trade agreements can be found under Trade Agreements^{boxiii} on the website of the Office of the U.S Trade Representative.^{boxiv} Even though the United States has entered free trade agreements, trade with other nations is not always free. To address this problem, the U.S. Office of the U.S. Trade Representative, the Department of Commerce, and the Small Business Administration have unveiled a Free Trade Agreement Tariff Tool^{boxv} that empowers more small- and medium-sized firms to take advantage of trade opportunities to enable a U.S. exporter to discover cost-saving tariff reductions for product/services and markets for their next foreign sale.

As an exporter, you should also consider the customs privileges of U.S. Foreign Trade Zones^{boxvi} (FTZs). These zones are domestic U.S. sites that are considered outside U.S. customs territory and, thus, available for activities that might otherwise be carried on overseas for customs reasons. For export operations, the zones provide accelerated export status for purposes of excise tax rebates. There are no issues of duty drawback;^{boxvii} the refund of certain duties (in whole or in part, of the customs duties collected upon the importation of materials that are later exported unused or as a finished good); internal revenue taxes and certain fees collected upon the importation of goods are only allowed upon the exportation or destruction of goods under U.S. Customs and Border Protection supervision, because duties are not collected when the goods are in the FTZ. For import and re-export activities, no customs duties, federal excise taxes, or state or local ad valorem^{boxviii} taxes are charged on foreign goods moved into FTZs, unless and until, the goods or products made from them are moved into U.S. customs territory. Thus, FTZs can be profitable for operations involving foreign dutiable materials and components being assembled or produced in the zone for re-export. Also, no quota restrictions ordinarily apply to export activity.

As of January 2006, there were 268 approved FTZs and more than 400 subzones in communities throughout the United States. These facilities are available for storage, repacking, inspection, exhibition, assembly, and manufacturing operations. The value of merchandise handled by FTZs exceeds \$170 billion. Information about the zones is available from local Export Assistance Centers, or from the Executive Secretary, Foreign-Trade Zones Board, and International Trade Administration.^{boxix}

Export Processing Zones^{boxx} (EPZs) encourage and facilitate international trade. Countries all over the world have established many types of export processing zones (EPZs), which include free trade zones, special economic zones, bonded warehouses, free ports, and customs zones. EPZs have evolved from the initial assembly and simple processing activities to include high-tech and science parks, finance zones, logistics centers, and even tourist resorts. They now include not only general-type zones, but also single-industry zones and single-commodity zones. Both the number of EPZs and the number of countries hosting them have expanded rapidly. There are now more than 845 EPZs in more than 100 countries. Many U.S. manufacturers and their distributors use these zones for receiving shipments of goods that are reshipped in smaller lots to customers throughout the surrounding areas. For further information about these zones, contact your local Export Assistance Center or the Trade Information Center at (800) USA-TRADE (800-872-8723).

A Customs-bonded Warehouse^{boxxi} is a building or other secured area in which dutiable goods may be stored, may be manipulated, or may undergo manufacturing operations without payment of duty. Authority for establishing bonded-storage warehouses is set forth in Title 19 U.S.C. 1555. Bonded manufacturing and smelting and refining warehouses are established under 19, U.S.C. 1311 and 1312. When goods enter a bonded warehouse, the importer and warehouse proprietor incur financial and legal liability under a bond. The liability is canceled when one the following happens with the goods:

- Exported.
- Withdrawn for supplies to a vessel or aircraft in international traffic.
- Destroyed under U.S. Customs supervision.
- Withdrawn for consumption within the United States after payment of duty.

Your company could enjoy several advantages by using a bonded warehouse. No duty is collected until merchandise is withdrawn for consumption. An importer has control over the use of the money until the duty is paid on withdrawal of merchandise from the bonded warehouse. If no domestic buyer is found for the imported articles, the importing company can sell merchandise for exportation, thereby canceling the importer's obligation to pay duty. Many items subject to quota or other restrictions may be stored in a bonded warehouse.

Check with the nearest U.S. Customs office before placing any merchandise in a bonded warehouse. Duties owed on articles that have been manipulated are determined at the time of withdrawal from the bonded warehouse.

So far we have addressed compliance with U.S. Government laws and regulations. Entering foreign markets entails considering target market legal considerations that address the following:

- Labor and employment laws technology transfer regulations.
- Customs laws and import restrictions.
- Tax laws at home and abroad addressing among other things repatriation of funds and applicable treaties.
- Repatriation and immigration laws.
- Trademark registration requirements.
- Costs and methods for dispute resolution.
- Agency laws.

Last, but not least, you may need information about specific industry regulations that may affect the specific product or service you offer your global customers, such as health care, financial services, environmental laws, food and drug labeling laws. Get going on your research and you'll be poised and ready to take advantage of global business opportunities.

Selecting Foreign Representation

By now, it seems as if everyone has already read Thomas L. Friedman's "The World Is Flat: A Brief History of the Twenty-First Century." It changed the way we think about global business, competitiveness and the implication for far-flung economies, governments, education and more.¹

—Andrew Ross Sorkin, author of *Too Big to Fail*

How can you sell abroad? If you want to grow and internationalize your income, determine what among your products and services you can export and get paid by international customers. Grow your global markets by exporting through foreign sales representatives that can deliver against your firm's tactical and strategic needs. Strong in-market representation is often critical to export success. In addition to directly dealing with your clients, a good sales representative is your sales partner who can provide you with a number of benefits:

- Access to local market knowledge and developments.
- Ongoing market intelligence about competitors and trends.
- Someone to assist with local rules and regulations, for example, labeling requirements.

- In-market customer support for inquiries, support, and warranties.
- Likelihood of an established network of retailers and wholesalers, saving you time and market development costs.

If you feel apprehensive, view the challenge of selecting and selling through sales representatives as an opportunity to grow your business and develop additional competitive advantages beyond domestic shores. Many small- and medium-sized businesses could be more successful and sustainable, if they would only export their products and services selling them either directly or through foreign sales representatives. There are three types of representatives.

An **Agent**ⁱⁱ is someone who acts under your direction and control. The agent has no authority to enter into binding agreements on your behalf without your prior permission. This means that you, not the agent, establish the price and all other terms of the sale. Until the sale is accomplished, you, not the agent, retain ownership of the goods and bear most of the economic risk. Agents are usually paid a commission.

A **Distributor**ⁱⁱⁱ is someone who purchases your goods from you for resale to others. The distributor acts under its own direction and control. This means that the distributor establishes the resale price and all other terms of the sale. After your sale to the distributor is complete, the distributor bears the economic risk, if something goes wrong with his sale of your product. Realize, however, that product liability is still yours as the manufacturer of the product.

A **Consignee**^{iv} is like an agent; a consignee never owns the goods. Therefore, you, as the manufacturer-owner, will generally bear the economic risk of loss, if something goes wrong in the sale of your product. Generally, you control the sale price and all other terms. However, like a distributor, the consignee acts under its own direction and control regarding the marketing and sale of the goods and so has the power to complete a sale.

By using a sales representative, you will incur less up-front costs, minimizing the possibility that your business might become subject to foreign laws. You will also reduce the risk of instability that might occur within the foreign country and you will reduce the extent to which foreign taxes and U.S. foreign tax rules apply to you. You will probably have less control over an independent sales representative than you would have over an employee. If you are not producing the goods in your foreign market, you may be subject to import and export rules, customs, and duties. Finally, you may forgo deferral or reduction of U.S. income taxes.

A good place to locate foreign sales representative is the U.S. Department of Commerce (USDC), its commercial officers, and the National Trade Data Bank^v (NTDB). Other sources include the American Chamber of Commerce located in your target country (found in the NTDB), the NTDB foreign trader's index, foreign trade associations, and foreign trade shows.

Exercise care in selecting a sales representative, given the distance between the target market and your own office/operations. You want to maintain your good reputation in the marketplace and avoid undue exposure of your firm to product liability. Thus, you should tailor a checklist of questions for potential sales representatives according to your needs, trade, and bank references. Additionally, seek any prospective representative's assessment of the in-country market potential for your firm's products. Such information is useful in gauging how much the representative knows about your industry; it provides valuable market research as well.

Just as you seek information on the foreign sales representative, the foreign sales representative will seek product and corporate information on your firm. You should provide full information on its history, resources, personnel, product line, previous export activity (if any), and all other relevant information.

Once your company has prequalified some foreign representatives, obtain their standard representation agreement. While you may ultimately counterpropose your own agreement, the sales representative's representation agreement will provide insight into the representative's negotiating position and can be the starting point for the agreement terms you propose. Be sure to retain target in-country legal counsel as well as domestic legal counsel to inform you of any potential legal pitfalls. For example, many foreign countries will not let you terminate a sales representative without paying compensation or "just cause." That requires your monitoring your representative's activities in detail for Foreign Corrupt Practices Act "Red Flags,"^{vi} should it become necessary to sever your distributor/representative agreement and seek assurance in that agreement that your representative will comply with U.S. foreign trade laws.

After assuring yourself there are no adverse foreign laws or consequences, your representation agreement will need to contain many provisions. Some provisions of any agreement need to address the following:

- Whether the representative is an agent, distributor, or consignee.
- Whether the representative may assign or delegate any duties.
- Whether the representation is exclusive or nonexclusive.
- Period of agreement (how long the agreement will be in effect).
- The scope/size of the representative's sales territory.

- Products – description and catalog.
- Sales performance targets, minimum orders, and sales reports.
- Who is authorized to submit a proposal and the extent of authorization to submit a proposal.
- Who may approve an order with specifics addressing delivery time timing, pricing, terms of payment, and all other sales terms and conditions.
- Who will deliver and install the goods, if they require installation.
- Who has title to the goods and when title to the goods passes.
- How much and what type of security will ensure your and his performance.
- Training and technical support.
- Advertising and promotion costs.
- Compensation rate, the currency in which it will be paid and the impact of fluctuation in currency exchange rates.
- Arbitration – country of location, rules, and form.
- Controlling law of the agreement, preferably U.S. law or that of a mutually favorable neutral country.
- Where disputes will be resolved, the manner of resolution, which country's law (preferably U.S. law), and what language will be used.
- Termination of agreement/early termination for breach of agreement.
- Communication costs – each party to cover its own costs.
- Compliance with U.S. foreign trade laws, for example, the Foreign Corrupt Practices Act.
- Confidentiality of agreement.

Global market expansion offers many opportunities for companies large and small to boost their revenues and profits by introducing new, innovative products and services to the global marketplace through foreign sales representatives, distributors and consignees. That expansion and profitability can be achieved through export sales through foreign sales distributors/representatives and a foreign sales agreement tailored to the mutual needs and interests of your customer, your partner, and your firm.

Governments, After-Sales Service, and Foreign Travel

Outsourcing and globalization of manufacturing allow companies to reduce costs, benefits consumers with lower cost goods and services, causes economic expansion that reduces unemployment, and increases productivity and job creation.ⁱ

—Larry Elder, American radio and television personality

No doubt you are familiar with doing business in your home market. In the event you travel abroad, you are entering the unknown. Most of us find ourselves in that situation. Thus, it is important, when you engage in global business, to understand the national, economic, and legal systems your customer operates in, relate to your customer during business travel, and successfully support his product and after-sale service needs.

Global Business and Governments

In countries and cultures in which the social framework is “loosely knit” like the United States and the United Kingdom, where individual goals are more important than collective goals, you are more likely to find market-based economic systems. In contrast, in countries and cultures in which the social framework is “tight” like those in Asia—Japan, Korea, China, etc.—where collective goals are given preeminence, the state may have taken control over many enterprises; markets in such countries are likely to be restricted rather than free and even “free” markets are subject to considerable legislation. Trade and its regulations are a source of tax income for governments, which also recognize that physical security is tied very closely to economic security. Not only does a strong economy generate funds for military expenditures, but it also, via international trade, creates a bond of codependency that strengthens every nation through alliance. So global businesspeople must understand both the role of government in trade and its motivation for that role.

Sovereignty, Prestige, and Security – The maintenance of national borders is the single-most important element that separates international trade from domestic trade. Geography aside, no country applies the same level of restriction within its borders as it does when dealing with its neighbors. Each nation’s approach to its domestic and foreign markets is dictated by its requirement for border sovereignty, the belief in its own prestige, and a need to secure its physical and economic well-being. Marketers must respect each government’s individual responsibility to its people, both from a legalistic (their country, their rules) and a commercial angle (their demand, my supply).

Host Government Trade Barriers – The host government of your target market can throw up a vast number of roadblocks to your success—some of them quite arbitrary in appearance. Here are some government-formulated obstructions to look out for when researching a new foreign market: Tariffs, Inspections, Import licensing, Distribution, Environmental controls, Technology transfers, Customs delays, Local partnerships, Local content requirements, Contract language, Quarantine, Quotas, and Anti-dumping laws.

Home Government Intervention – It’s rare for a country to attempt to stop its local companies from exporting. Even though they permit a steady outflow, governments maintain oversight and taxing rights. Marketers may have just as difficult a time handling their own government as they will the overseas variety. As is true of import laws, not all export requirements are written down in all countries and are, therefore, subject to “negotiation” and arbitrary enforcement. Research and good governmental relations are keys to keeping your product in the export pipeline. The following are the very formal and straightforward means by which governments control the marketing of their domestic producers, as well as that of foreign companies: Embargo, National security issues, Export tariffs, Export licensing, Anti-rerouting measures, Job protection sentiments.

Beyond these codified restrictions, there is a host of constraints—neither codified nor necessarily government enforced—that can affect the marketing of your product in foreign lands. The following informal barriers are more difficult to detect and, in many cases, harder to overcome than their more official counterparts: Public relations, Nationalistic, Religious, Ethnic, Societal, Scientific, Ethical, Environmental, and Educational barriers.

Trading Blocs: – The Invisible Handcuff – In the last few decades, nations have bound themselves together in non-military regional alliances that are designed to promote trade. Trading blocs, arising from free/foreign trade agreements among countries in a geographic region, essentially reduce, and ultimately remove, tariff and non-tariff barriers to the free flow of goods, services, and factors of production between each other, such as the free movement of people through the European Union. They also restrain foreign traders from assailing the weaker members by protecting them with numerical strength. So, if you deal with one trade bloc member, you deal with them all. Trading blocs work as regional handcuffs to control and sometimes eliminate trade in certain products.

Global businesspeople need to be aware of the membership and goals of such trading blocs so their plans can be tailored, not just to a single country, but perhaps to an entire region. Listed below are some of the major trading blocs your firm should research and formulate strategies for.

- APEC (Asia–Pacific Economic Cooperation).
- ASEAN (Association of Southeast Asian Nations).ⁱⁱ
- NAFTA (North American Free Trade Agreement) – Canada, Mexico, and the United States.
- MERCOSUR – Argentina, Brazil, Paraguay, Uruguay, Chile, Bolivia.
- ANDEAN COMMUNITY – Bolivia, Chile, Ecuador, Colombia, and Peru.
- FTAA (Free Trade Area of the Americas).
- OPEC (Organization of Petroleum Exporting Countries).
- EU (European Union).
- SAARC (South Asian Association for Regional Cooperation).
- SAPTA (South Asian Pacific Trade Association).
- CIS (Congress of Independent States).
- AFTA (ASEAN Free Trade Association).

After-Sales Service

After-sales service, which includes professional product consultation, maintenance, field service, and training, important factors in the initial export sale and ongoing success of products in foreign markets, should be an integral part of your firm's business strategy and export initiative. If capable, knowledgeable, and efficient, it can prompt export sales to either grow with long-term commitments or fail. Service is on-time product delivery, courteous sales personnel, a user or service manual modified to your customer's needs, and ready access to a service facility and dealer support. Service also varies by product type, quality, and price of the product and your distribution channel. Some export products require no service. The issues that do arise, if any, are resolved once you have determined quality criteria and return policies.

Then again, you may have a product, a consumer durable, or consumable that requires after-market service. For products like these, your consumer, especially buyers of industrial goods, seek after-market service, a key factor in a customer's product choice. No doubt you realize foreign markets, like those at home, are sophisticated, each with their own unique seller expectations. These markets require manufacturer/distributors to ensure their service performance equals, or preferably exceeds the market competition, given the other factors of product quality, price, promotion, and delivery. Likewise, should you pursue a strategy and market entry decision that eliminates after-sale service, regardless of the number of markets you choose to enter, you run the risk of fewer repeat sales.

But, let's examine the remaining service delivery options available to you. A high-cost option is returning the product to you for service or repair. This option inconveniences the customer by requiring the high cost of return shipment and loss of product use over an extended period of time while you, the manufacturer, incur the cost of exporting your product a second time returning it to the field. This approach is neither practical, nor cost effective.

Should your distribution channel be the creation of a joint venture or some other contracting arrangement, the overseas partner may have established a service/repair center? In this instance, you will want to negotiate the cost of providing for repairs, maintenance, and warranty service into the joint venture agreement.

If you are selling in a large or small retail environment, the firm may prefer identifying and using local service facilities. Acting on this warranty and service alternative requires incurring the up-front expense of identifying and training local service centers, specifically administrative, training, and supervisory overhead costs. But, it is one that develops the customer perception that the firm is a local competitor, which can be an important competitive factor when a firm enters foreign markets.

Lastly, if you are exporting into a commercial or industrial market, selecting a representative to serve a region, nation, or market should be based not only on the representatives' sales capability, but also on cost and its ability and willingness to service the product, the firm's vital stake in the global marketplace.

Business Travel Abroad

Realize your culture and many of its customs differ from those of your global customers so it is a must, that if you are doing business globally, you need to prepare yourself to work with your customer, know and appreciate his different customs, and the different practices and rules by which he goes about doing business. Any misunderstanding of your customer's culture and business practices will be evident, and potentially offensive, thus damaging to your business interests and advancement to a position with global reach. Recognize that rules and customs vary by the country—and it's important to know those specifics before you go.

Before your next business trip abroad there are many questions to ask yourself such as these:

- Is my passport up-to-date? If it is within 6 months of expiration, renew it as some countries won't accept it.
- Do I need a visa?
- Do my travel plans reflect the company's goals and priorities?
- Am I bringing a product for demonstration or sample purposes? An ATA carnet (pronounced "kar-nay"), an international customs export-import document to obtain duty-free temporary admission of certain goods may be helpful.
- What, if any, vaccinations are required?
- What is the currency exchange rate?
- What is the time difference?
- What is the dress code?
- What are some of the business customs and laws of the country?
- Are handshakes or bows, the proper use of names and titles acceptable when greeting someone?
- How are business meetings and dinners conducted?

- Will security be required and do I have emergency contacts and travel insurance?
- Are e-mail and communications secure?
- Are there export control laws to comply with?

There are also thousands of websites and books with useful information about business travel abroad. Use them to research all of the above before you go. Here are just a few great resources you'll want to check out:

For travel books with information about travel documents, weather, tipping guidelines, and local customs obtain Frommer's,ⁱⁱⁱ *Fodor's*,^{iv} or *Lonely Planet*^v books.

To learn more about safety and security, visit the Federal Bureau of Investigation's Safety and Security for the Business Professional Traveling Abroad^{vi} page.

For guidance by country, visit the United Kingdom Foreign and Commonwealth Office's Travel Advice by Country^{vii} page, or the website of the U.S. Department of State website for U.S. passports and international travel^{viii} website.

For news about hotels, transportation, food, and anything else, visit the Business Traveller website.^{ix}

Read about international etiquette, manners, and culture by visiting Cyborlink.com.^x

Download the Culture Guides^{xi} mobile app for information about local customs by country.

To learn about the food in other countries, visit FoodByCountry.com.^{xii}

For guidelines on tipping in foreign countries, check out *The World Traveler's Guide to Tipping Internationally*.^{xiii}

For information on the required travel documents, visit the individual country's government travel site (i.e., Travel.State.gov^{xiv}).

For information on business dinner etiquette see *Tripcase*.^{xv}

For an ATA carnet,^{xvi} a temporary import/export document used to clear customs without paying duties and import taxes on merchandise that will be re-exported within 12 months, contact the U.S. Council for International Business^{xvii} allowing 6 to 8 weeks to acquire all the necessary documents.

After concluding your business, take the time to take in the local atmosphere, if possible. It is all about knowing your customer; what his government requires of him and you; his interest in your product; its after-sales support; his culture; and his customs, needs, and business practices. Knowing more will enable you and your firm to be of greater service.

Building Working Relationships

Globalization presumes sustained economic growth. Otherwise, the process loses its economic benefits and political support.ⁱ

—Paul Samuelson, American economist, and the first American to win the Nobel Memorial Prize

Foreign customers typically have limited initial contact with you. Once an overseas customer makes its inquiry, it is essential you cultivate that relationship as much as any one that you would cultivate with a domestic customer. That entails acknowledging its inquiry and responding to your foreign prospect notifying them of key personnel in your organization and their contact information.

Responding to Overseas Inquiries

Typically, the initial contact will be a Request for Information (RFI) enabling the customer to gather noncompetitive information or comments enabling him to qualify suppliers for a follow-on Request for Proposal (RFP), the second step

of a longer sourcing process. In this step, foreign customers inform you of their business needs and ask you to propose how you and your company would satisfy those needs. In requesting a proposal, your foreign customer seeks which goods or services you offer, collects information about specifications, your production capacity, pricing, payment, and delivery. Customers will use this information to intelligently determine follow-on activity; ceiling prices; and importantly, the total cost of ownership.

Responding to your foreign customers with clear, specific, complete, and accurate information is an excellent opportunity to promote sales and goodwill, critical to the near and long-term success of your company's efforts. If you need to meet a deadline, send the information via datafax. Unlike telephone communications, datafax may be used effectively despite differences in time zones and languages. Because of distance, a foreign customer contact can grow "stale" and fade unless the initial business relationship is active and kept up to date. So pursue your prospective customer!

Learning about Potential Clients

There are many ways to research a foreign customer before conducting any formal business. You can save time and money by conducting basic research using these methods:

Business libraries. Several private sector publications list and qualify international firms. There are also many regional and country directories.

International banks. Bankers have access to vast amounts of information on foreign firms and are usually very willing to assist corporate customers.

Foreign embassies. Foreign embassies are located in Washington, DC, and major capitals; some countries have consulates in other major cities. The commercial (business) sections of most foreign embassies have directories of firms located in their countries.

Sources of credit information. Credit reports on foreign companies are available from many private sector sources.

Face-to-Face meetings are the best way to build relationships and trust between the parties to any transaction. This is especially the case with customers in high-context cultures in which communication is steeped in and guided by historical references, community relationships, and family interaction that require direct, personal contact, for example, China, India, and Japan. Thereafter, virtual meetings may be appropriate, but only after you conduct initial face-to-face meetings. Generally, face-to-face meetings are essential when large amounts of information must be conveyed, when your customer has unique needs, product adaptation is required, and when you face competition from competitors well-entrenched in the marketplace.

Trade exhibitions are a great way for a company to make connections and to get an idea of what commodities are in demand in different markets.

Regular travel to the customer's foreign market and meeting with them and others important to your success in that market. Doing so enables you and senior personnel to learn more about the foreign marketplace and the importance of building a strong, productive relationship with customers there.

Ask for referrals from sources you trust.

Building effective business relationships entails building trust and, when possible, speaking the language. Trust lies at the heart of successful long-term intercultural business relationships, since partners from different cultures don't always have the same values or assumptions about how business works. When trust is developed, partners can navigate difficult issues over time by fostering a candid exchange of ideas, issues, and agendas. The trust deficit between executives is less stark when it comes to trust based on competence, reliability, and the personal dimension of trust. In many languages, as in English, one word or sentence can mean different things. Always have excellent translators for important discussions to make sure nothing gets lost or misinterpreted. Above all, understand all the issues involved in your counterpart's underlying interests and sentiments toward them.

World, National, and Your Economics

*Movies are the biggest export in the world, the biggest American export.
It influences people all over the world.ⁱ*

—Brett Ratner, one of Hollywood's most successful filmmakers

Global economic activity is picking up with a long-awaited cyclical recovery in investment, manufacturing, and trade. The International Monetary Fund's World Economic Outlook anticipates economic growth rising to 3.5% in 2017 and 3.6% in 2018. This outlook is based on positive developments that include stronger economic activity, increases in global demand, lower deflationary pressures, and optimism in financial markets. Economic activity in advanced economies is expected to increase in 2017, supported by renewed momentum in the United States. World economicⁱⁱ developments in the U.S. economy, because of its size and interconnectedness, have important effects around the world. The U.S. economy is the single largest economy in the world accounting for almost a quarter of global gross domestic product (at market exchange rates), one-fifth of global Foreign Direct Investment, and more than a third of stock market capitalization. It is the most important export destination for one-fifth of the countries around the world.ⁱⁱⁱ

In Part 6, we examine world economics, the U.S. economic outlook for 2017, the impact of Britain's exit from the European Union, the real shape of entrepreneurs and small businesses, and an export strategy for surviving a strong U.S. dollar in export markets.

It's Time to Grow Your Global Markets

A lot of people, including business leaders, think the future belongs to China. Globalization is not a zero-sum game, but we need to hone our skills to stay in play.ⁱ

—Jon Meacham, former editor of *Newsweek* and co-anchor of PBS's new TV and web newsmagazine *Need to Know*

You may think world economics is overwhelming and “The odds are stacked against me!” Think again. Although the international community of political, economic, and business leaders may be anxious about the global financial system, there is no serious sense of a slowdown in growth or sharp contraction of asset prices in the system. While the United States is gaining strength by global standards, the world economy is slowly moving away from the Great Recession and economic crises in Europe. Although growth in the volume of world trade has been sluggish at 2.8% in 2016, World Trade Organization economists confidently forecast demand for imported goods in developing Asian economies should pick up with global trade growth increasing to 3.6% in 2017.ⁱⁱ The market for labor is improving with employment numbers at a

steady climb. Household debt is on the decline and private sector balance sheets are showing improvement. Although there is confidence in U.S. growth, it is clear that few expect a normal recovery evidenced by slower than usual productivity, investments, and economic growth.

Across the “pond” in Europe, the financial landscape in the Eurozone started 2016 on a high note with the zone’s economy growing at a fast pace. The first quarter GDP picked up of 0.6% as experts expect the Eurozone economy to slow to a 0.3% expansion in the second quarter due to labor disputes in France, a depreciated euro, and terrorist attacks. The forecast for growth in the Eurozone economy is 1.5%, not great, not bad either. A loose monetary policy and an improving labor market should cushion this region’s economy against downside risks due to Britain’s pending exit from the European Union. The year 2017 could see growth for half the economies in the region growing a healthy 1.7% resulting from strong incoming data for the common currency block and strong dynamics at home and abroad. However, rising inflation could take a bite out of consumer spending and is a risk to the outlook.ⁱⁱⁱ In addition, countries in crisis, principally Spain and Ireland, have adopted structural reforms, restored public finances, and cleaned up their banking systems to achieve better economic prospects. Ireland, Luxembourg, Malta, and Slovakia, the fastest growing economies in the region, should experience economic growth above 3%. Finland, Greece, and Italy will not be so fortunate with economic growth stagnating at 1%. Spain at 2.7%, Germany expanding at 1.6%, and France at 1.4% have better economic prospects.

Even after the World Bank projected a rise in its 2017 global growth forecast to 2.7%, there is the prospect that in 20 years global gross domestic product (GDP) could almost double. Many Asian and African countries will grow between 2.9 to 6.1% or more per year, and high growth countries will quadruple their GDP over the next two decades.^{iv} Thus, growth over the long term is reducing poverty and the emerging middle class of the world’s industrial countries will become a powerful consumer force. With oil prices falling and central banks keeping interest rates low, one would think there is no reason for the international community to be worried. So why are you and the international community anxious about the domestic and global economies? There are a couple of explanations.

- First, the absence of a coordinated monetary policy worldwide creates a lot of turmoil in currency markets and the more vulnerable emerging markets, in particular.
- Secondly, since the United States is leading the recovery, the Federal Reserve (Fed) will relax some of the unconventional monetary measures it adopted during the Great Recession. At the same time, the European Central Bank (ECB) is considering if, how, and when it might expand its balance sheet to be effective in boosting inflation.

The only bright spot is the United States, and even the United States is good, but not great.

So it appears both the Federal Reserve and the European Central Bank (ECB) are moving in the right direction. How and specifically when the financial markets will react to ECB monetary expansion and the Fed's relaxation of quantitative easing measures is difficult to tell. The economic environment will be challenging for emerging markets. The unintended side effects of new Fed and ECB policy changes will only increase uncertainty, especially for those countries with domestic political problems and exposure to falling oil prices.

Today, geopolitics is a force driving anxiety in the global community. It may have been a low concern after the Cold War, but since the recent conflicts in Ukraine, Syria, and Iraq, there is a general sense of growing trouble. Escalating conflicts cause economic contraction producing even greater anxiety. Accompanied by geopolitical risk is the risk of deflation, particularly in the Eurozone. Central bankers are dealing with anemic growth, low wage increases, price pressure from demand, and low unit labor costs, not to mention tight credit in parts of Europe. With banking going through an enormous regulatory overhaul, it is no wonder there is anxiety in the international finance community.

In general, European economic performance is stagnant. Brazil, Russia, and China are no longer the economic performers they once were.

It is genuinely difficult, but not impossible, for businesses to navigate a slow global recovery and geopolitical/economic risk. The only real bright spot is the United States, and even the United States is good, but not great. Consider the findings of the Global Cities Initiative, a joint annual project of the Brookings Institution and JPMorgan Chase in their joint report, *Export Monitor 2017*.^v In their analysis of goods and services exports in 381 U.S. metropolitan areas^{vi} U.S. exports in 2016 did not drive significant economic growth in most parts of the country. The findings indicate a shifting balance toward services exports, signaling the need for an updated U.S. trade policy strategy that cannot simply rely on a manufacturing strategy. The report finds that exports within that nation's metropolitan areas declined by 1.9% from 2014 to 2016 totaling \$70 billion due to a strong dollar and sagging global demand. The steepest declines occurred in metro areas specializing in aspects of machinery and auto manufacturing, such as Northeast Ohio, Tulsa, Okla., Peoria, Ill., and Columbus, Ind. Only 8 of 35 industries experienced export growth led by educational and medical services, management and legal services, commodities, travel and tourism, and the technology sector.

The U.S. Economic Outlook 2017

How's the economy in the United States doing? In 2016 world trade growth slowed at 2.3%^{vii} with import volumes in leading emerging markets, such as China, Brazil, and Russia, especially weak. More recently the slowdown in China's manufacturing output problems has significantly impacted the global economy. That downturn was more cyclical than structural, leading to the prospect of stabilized economic conditions in these economies and prospects for a moderate recovery in 2017. Even though there appear to be economic challenges facing emerging markets like Singapore and Hong Kong in the near term, economies in emerging markets are likely to be important drivers for global economic growth in the medium term. Still, hedge funds across the industry are seeing a relatively strong start in 2017.^{viii} Any increase in interest rates in the United States is not anticipated to help the rest of the world's economy.

Economies in emerging markets are likely to be important drivers for global economic growth in the medium term.

Trade flows should accelerate over the next few years. The recent negative shocks coming from China, the United Kingdom's Brexit, and emerging markets have been mitigated by domestic policy stimuli governments are implementing and lower bond yields in financial markets. The United States and Eurozone countries like Germany and the United Kingdom will continue to support world trade over the next couple of years as their economies are expected to expand modestly at a similar pace in 2017 at a rate of 3.0%, whereas Asia, led by China, appears to be headed for weaker growth.^{ix} An increase in investment growth through 2016 in the United States and the three largest Eurozone economies—Germany, France, and Italy—should spur demand and trade in the capital goods sectors. In 2017, consumer spending in the developed economies should grow at 2.3%.^x This is not to say there will not be risks. The cyclical rebound in China's manufacturing sector may take longer, demand in the United States and Europe may soften, and political or social strains in emerging markets could complicate any improvement in their economies. Thus, the Organisation for Economic Co-operation and Development (OECD) predicts growth around 3.5% in 2018 boosted by fiscal initiatives in the major economies.^{xi} HSBC Bank, another global player, expects positive growth of around 1% in 2017 with growth in services accelerating toward 6% a year in value terms over the next 15 years with total value more than doubling by 2030 as reported in its December 2016 *Trade Forecast Report*.^{xii} The forecast is looking up, but what about Britain's exit from the EU. "Won't that dampen my efforts in global markets?," you ask. Let's take a closer look.

Britain's Exit from the EU (Brexit), Global Trade, and SMEs

In advance of Britain's Brexit referendum to leave the European Union, many economists repeatedly warned Britain's electorate that Britain would lose favorable access to European markets, 1 to 6% of its gross domestic product, business investment, and ultimately tumble into recession, should it vote to exit the European Union. On June 23, 2016, Britain's establishment, including then UK Prime Minister David Cameron, woke to the reality of the unthinkable—the “Leave” vote had won by 51.9%. Cameron would ultimately resign as prime minister; the British pound's value dropped in value, and international financial markets sharply declined to trigger dire forecasts of a recession in the United Kingdom, if not a global recession.^{xiii} Trouble you are thinking?

Although the initial drop in the value of British pound and global stock markets were severe, they were not as immediately as devastating as predicted. The Bank of England and its foreign equivalents declared their readiness to cover any temporary cash outflows and foreign capital remained. The exact timing of a formal exit notice to the EU remains unknown and it is not likely to be delivered before the end of 2017, according to Prime Minister Theresa May. When Britain does give its formal exit notice, the real impact of Brexit will emerge over a two-year period according to European Union regulations, specifically Article 50, which governs exit and negotiating out of member status.

For the time being, Brexit's global impact is unlikely to generate a global recession since the United Kingdom accounts for only 3.6% of global imports of merchandized goods and 4.1% of global imports of commercial services.^{xiv} Within the United Kingdom, the outcome of the British referendum is anticipated to affect the British pound against other currencies leaving the British consumer with less buying power, British companies becoming targets of M&A deals, and the British manufacturing sector sorely affected. Outside of the United Kingdom, the economic damage from the United Kingdom's vote to leave the European Union is expected to be most profound in the Eurozone in which 2017 growth for half the economies in the region could slow to a 1.4% increase as a result of the more pronounced effects of Brexit.^{xv}

For 2017 the U.S. economic outlook is not meteoric^{xvi} with continued uncertainty dragging down several key U.S. metrics. The GDP growth rate will plod along at about 1.0% in the first quarter of 2017 and 2.1% for 2017 as a whole, a scenario in which growth is neither inflationary nor so low that the United States heads toward a recession. Job growth will gradually slow to 175,000 jobs per month because as the labor market tightens, it becomes harder for employers to find suitable candidates. The unemployment rate dropped in May 2017 to 4.4%, the lowest since 2007. It will likely end the year at 4.3% and drop further next year, nearing 4%. There isn't too much inflation or deflation on the horizon as well. The big news as we began 2017 is the

increase in U.S. shale oil production. The good news for the economy is that increased shale oil production, possibly leading to a glut in the oil market, will lower the cost of transportation, food, and raw materials for business; and this will raise profit margins, giving you and consumers more disposable income to spend. With strong domestic production and relatively flat demand, United States crude oil production may increase to make the United States a net exporter by 2026.^{xvii} How's that for a rosy economic picture? The outlook for doing global business, however, is bright! The appetite for "Made in the U.S.A." is global, trade is expanding and, if your growth-oriented small business has been slow to jump into the global marketplace, now is the time to jump in!

The Real Shape of Entrepreneurs and Small Business

You might think where does that leave me? In December 2016, the National of Independent Businesses reported its small business optimism index rose to 105.8^{xviii} from 98.4 the previous month based on expectations for better sales and more favorable business conditions under then President-elect Trump. The sharp rise in small business optimism comes on the heels of consumer confidence hitting a 15-year high in late December 2016. That increase was also attributed to high hopes for Trump's economic agenda.

Your small business counterparts and competitors reflect on the overall state of the economy: unemployment is at a six-year low, the stock market is performing well, and the availability of credit has broadly improved. Even with these positives, you recognize there is room for improvement especially in Washington, DC, given the rise in health care costs and increasingly stringent regulations imposed by the U.S. Environmental Protection Agency and the Occupational Safety and Health Administration. Other issues addressed included tightening national borders with a priority on creating amnesty or a path to citizenship. Tech companies endorsed more visas for skilled, educated, and entrepreneurial workers.

Small and start-up businesses are struggling to overcome unprecedented regulatory and statutory burdens.

So, overall, you and other entrepreneurs are mostly confident, somewhat cautious, and broadly annoyed with the political scene and systems that burden their efforts to be successful. As to the state of entrepreneurship, the business environment is as a whole great, but challenging. More than half welcome the rise in incubators, accelerators, and business-plan competitions,

with a smaller number endorsing the increasing number of entrepreneurship programs at many universities.

Noteworthy was the absence of responses addressing the state of entrepreneurship in the United States and U.S. entrepreneur reluctance to “go global.” High-tech companies are reducing more head-count than they are adding. The number of initial public offerings (IPOs) remains substantially below those of the previous two decades and business exits now exceed new business formation. Other indicators of entrepreneurial health indicate small and start-up businesses are struggling to overcome unprecedented regulatory and statutory burdens. Consequently, job creation, productivity improvements, and innovation have slowed. The contributing factors for this decline are many and can be dealt with partially through regulatory and statutory changes across a wide spectrum of public policy. In February 2017, SMEs, like you and others, reported they are optimistic about their prospects, but the enthusiasm has yet to be translated into impressive increases in spending and hiring.^{xix}

Are you reluctant to “go global” because it’s easy to serve “local” U.S. markets without the annoyance of dealing with international regulatory and trade barriers, language, and cultural differences? Aside from these issues, you don’t know a second language and foreign markets, not having traveled abroad to the same extent as business people from many other countries. It is time to change and do what you can to “globalize” yourself and your business. What about the strength of the dollar you wonder?

Export Strategies for Surviving a Strong U.S. Dollar

In March of 2015, a prominent bank reported the U.S. dollar’s dramatic gain in strength over the last 18 months and still another bank reported that the strength of the U.S. dollar increased 14% in value since 2015.^{xx} This remarkable growth in the dollar’s value directly reflects the dollar’s strength over other struggling currencies in Europe and the Orient. The pace of the dollar’s rise possibly convinced you and others that a slowdown in the dollar’s ascent is not in the making anytime soon. The U.S. dollar, as measured by the Bloomberg Dollar Index, traded in negative territory from mid-February through mid-November 2016, not reaching positive territory until after the November 2016 U.S. elections.^{xxi} Certainly, no one here at home frowns on the dollar’s climb with the U.S. labor market making a comeback in a burgeoning economic recovery. Right?

The dollar’s strength has negatively affected the profits of U.S. small businesses that export, manufacture overseas, or sell to large multinational companies, making their products more expensive.

Foreign sales are either lost or producing losses as firms convert their overseas sales back into dollars hurting U.S. exporters and those employed in exporting. Taking advantage of the opportunity, domestic competitors in foreign markets are offering products for substantially less, making it tough for their U.S. competitors. Customers in these markets can readily tell the smart move—buy for less or pay more for your preferred U.S. product, even though the dollar has shed some of its strength since the start of 2017, falling nearly 3% against a basket of global currencies.^{xxii}

Small- to medium-sized businesses can do better if they step up to the challenge of “going global.”

How can U.S. small business exporters compete in foreign markets today? U.S. small business exporters riding out the strong dollar in currency markets should keep a close eye on the cost of their operations and pass the importance of cost management to their employees. While remaining calm in the face of the dollar's rising strength, you should broaden your horizons and seek export opportunities outside your domestic markets. With a diversified export base, you should maintain domestic sales while avoiding foreign and domestic business risks.

Conclusion

In examining the nature of global entrepreneurship, Daniel Isenberg, in his 2008 *Harvard Business Review* article entitled, “The Global Entrepreneur,”¹ notes that we have conditioned ourselves to think that companies only venture abroad after establishing themselves at home. Today, however, companies are being “born global,” meaning that a firm that sells internationally gains some advantage from internationally distributed purchasing, manufacturing or sales at its launch.

Today global start-ups² are doing business in many countries before dominating their home markets, setting up manufacturing facilities, buying materials from the best global sources, scouting internationally for the best talent, tapping investors wherever they may be located, and learning to manage operations from a distance. And they do so without the experience and resources of a firm that has already succeeded domestically. Today’s entrepreneurs, individuals, and start-ups, according to Isenberg, cross borders to be both defensive—globalizing some aspects of their business at start-up and offensive—discovering that a new business opportunity spans more than one country or they can use distance to create new products or services. These start-ups face challenges at their very launch, requiring their owner entrepreneurs to be resourceful with skills to tackle them. Among the challenges are the following:

- **Distance** – Physical distance with its inherent time differences can be tough to navigate, let alone emotional detachment from culture, language, education systems, political systems, religion, and economic development levels.

- **Context** – Where entrepreneurs choose to locate their companies, their corporate entity will be affected by the country's political, regulatory, judicial, tax, environmental, and labor systems.
- **Resources** – Customers expect start-ups to possess the skills and deliver the levels of quality that larger companies do. That's a tall order for resource-stretched new ventures that have no other option but to do whatever it takes to acquire and retain customers.

To cope with these challenges, global entrepreneurs need to have developed a clear rationale for being “global”; need to strike partnerships with large companies headquartered in other countries; and identify organizations that can provide the names of influential individuals, companies, and informal organizations, clubs, or groups needed to facilitate trade and investment. In addition, entrepreneurs must choose global suppliers and monitor them without having a nearby presence while seeking the best manufacturing locations, should labor and fuel costs rise and quality issues develop.

Entrepreneurs, individuals, and global start-ups, to work in an international environment, envision no boundaries between domestic and international in their view of the markets they serve. They operate on strong international networks of production and distribution and invariably speak several languages, being equally competent in several cultures.ⁱⁱⁱ These individuals and firms embrace the fact that the world isn't flat. They are not fainthearted and thrive by using distance, context, and global resources to gain competitive advantage. You may not immediately share all of the characteristics of global entrepreneurs or even be multilingual, but you can join this community by first considering the advantages and disadvantages to your firm and selecting the best mode of global market entry that we have addressed thus far (exporting, turnkey projects, licensing, franchising, joint ventures, or even setting up a wholly owned subsidiary in a host country of your choosing). It is not that difficult and any challenges that arise can be overcome. In finishing this book, you have taken the first steps and may be emboldened by them. Now, not later, it's time to grow your global markets!

Thanks so much for purchasing *Grow Your Global Markets*. I am honored by the trust you placed in me and my work to improve your global business and bottom line. If you have truly found it to be useful and a worthwhile read, I'd like to ask you for a small favor. I would be grateful if you would post an honest review. Your feedback will enable me to write the kind of books that will best serve your global business needs. Please let me know your comments by going online and sending me a “customer review.” Click that button and you are good to go!

Yours in the global market place,

Raymond A. Hopkins

Common Export Documents

Commercial Invoiceⁱ – a document, included with your shipment, stating the seller's goods sold to the buyer and is used by customs officials for control, valuation, and determination of duty and taxes. It is also a document of content identifying the shipment as well as the basis for preparing all other documents (export packing list, bill of lading/airway bill) covering the shipment. All data identified in the invoice must conform to the particular entry requirements of the importing country.

Export Packing List – a document that identifies shipment details (seller, buyer, shipper, invoice number, date of shipment, mode of transport, carrier; and itemizes quantity; description; the type of package, such as a box, crate, drum, or carton; the quantity of packages; total net and gross weight in kilograms; package marks; and dimensions, if appropriate. Domestic and foreign customs officials use the document to check cargo so details on the packing list must exactly match what is specified on the commercial invoice and bill of lading/airway bill.

Pro Forma Invoice – A pro forma invoice is a document used as a price quotation that declares the seller's commitment to provide the goods or services specified to the buyer at certain prices. Typically, it gives a description of the purchased items, as well as other important information like shipping weight and transport charges needed for entry purposes.

Transportation Documents

Air Waybill – the document controlling the routing of your shipment, the equivalent of an ocean bill of lading, while your export shipment is in the hands of the air/sea carrier/freight consolidator.

Certificate of Originⁱⁱ – the document used to identify the country of manufacture of the goods in your export shipment.

Electronic Export Information,^{iii,iv} – formerly provided via a Shippers Export Declaration, a filing that is generally required by the U.S. Customs and Border Protection for U.S. exports that contain a single commodity's value exceeding US\$2,500.00. All EEI information is provided to the U.S. Census Bureau via its Automated Export System and is used for export compliance and governmental reporting.

Shipper's Letter of Instruction,^{v,vi} – A Shipper's Letter of Instruction form serves multiple purposes: to provide transportation and documentation instructions; to provide export control and reporting of licensing information; and to convey authorization to the forwarding agent to transmit **Electronic Export Information** (EEI) to the Automated Export System.

Notes

- i. www.exporthelp.co.za/documentation/commercial.html
- ii. <http://certificateoforigintemplate.com/>
- iii. Electronic Export Information form and description. Retrieved from https://www.ups.com/content/us/en/shipping/international/documents/intl_forms/declaration.html
- iv. <https://census.gov/foreign-trade/aes/index.html>
- v. Shipper's Letter of Instruction form and description. Retrieved from www.ncbfaa.org/Scripts/4Disapi.dll/4DCGI/cms/review.html?Action=CMS_Document&DocID=16032&MenuKey=pubs
- vi. www.ncbfaa.org/Scripts/4Disapi.dll/4DCGI/cms/review.html?Action=CMS_Document&DocID=16032&MenuKey=pubs

Sample Proposal OEM Equipment

Company X Letterhead

Date

In reply refer to:

XX/XXXX-XXX/XX

Customer Name

Customer Company

Address

Customer City, Country

Attention: Customer Name

Title

Dear Mr./Ms. Customer:

Subject: Draft, Firm, Fixed Price Contract for Product X

Reference: Customer Request for Pro Forma Invoice under Purchase,
Requisition No. XXX

Seller Company is pleased to submit the following firm, fixed price information for Product X. The content of this proposal includes:

1. Price and Availability (Pro Forma Invoice No. PR0-0X-001).
2. Exceptions to Special Provisions. Attachment No. 1.
3. Exceptions to General Terms and Conditions, Attachment 2.
4. Technical Proposal Containing:
 - a. X
 - b. X
 - c. X

I. Statement of Work:

Item 1 - Product W (Description)

Unit Price \$

Extended Price \$

Item 2 - Prepare Product X (Description)

Unit Price \$

Extended Price \$

Item 3 - Provide Product Y (Description)

Unit Price \$

Extended Price \$

Item 4 - Optionally provide Product Z (Description)

Unit Price \$

Extended Price \$

Item 5 - Provide Support for Product X (Description)

Unit Price \$

Extended Price \$

II. Delivery

Delivery of Product X can be expected to begin X months after receipt and acceptance of a contract at a rate of X per month.

III. Inspection, Acceptance, and Title

Inspection and acceptance of Product X will be by Seller's personnel at its City, State, U.S.A. facility and shall conform to Seller's specification.

All products manufactured shall be inspected and accepted in accordance with Seller's Product Assurance Manual approved by Entity X. Seller shall submit with each delivery a Seller Company Certificate of Conformance.

Title to Product X shall pass to Buyer at the time of acceptance at Seller's facility.

IV. Payment Terms

In consideration of Seller's performance of its obligations, payments shall be made in U.S. Dollars, in accordance with the subparagraphs of this payments section. All payments shall be made by prime bank transfer (U.S. Dollars) to the bank specified by the Seller.

- I. Buyer will make payments in the amount and at the times set forth below:

Billing Schedule

- A. Advance payment of x percent (x %) of the definitive price of an ensuing contract is required upon establishment of Buyer's letter of credit as described in paragraph 2, below.
 - B. The balance of the ensuing contract price shall be paid upon shipment of Product X less the pro rata amount of the down payment specified in paragraph 1A above. Invoices shall be accompanied by an air waybill, evidencing delivery.
2. Letter of Credit of Buyer
 - A. Within thirty (30) working days after signing a contract, Buyer shall establish an irrevocable letter of credit confirmed by a major U.S. Bank, in the amount in a form acceptable to Seller of an invoice (original and five [5] copies) for payment specified in paragraph 1 above. Subsequent invoices involving hardware shipment shall also include a clean original airway bill as proof of shipment.

- B. Buyer's letter of credit shall remain in effect until such time as Seller has received all payment due under the contract or, in the event of termination; until such time as Seller has submitted the termination claim and received payment thereunder. The confirming bank shall make immediate payment thereunder. The confirming bank shall make immediate payment in whole or in part of termination settlement upon presentation of a sight draft in the amount of the drawing, accompanied by an Invoice(s) in the amount of the termination settlement signed by Seller's representative certifying that the amount is true and correct and is drawn down on provisions as set forth in the termination settlement.

V. Special Conditions of Proposal

1. The prices quoted herein are "ex-works Seller's Facility," and are valid through day/month/year. The prices quoted do not exceed the regular prices, as adjusted by the export differential, and are not higher than those charged to other Buyers similarly situated. Any order will be subject to the approval of the U.S. Government and Seller's approval authority.
2. Seller has/has not engaged a commission agent to solicit and promote the sale of Product X and the associated items quoted herein.
3. Seller will accept a fixed price contract incorporating the description and prices set forth above and mutually agreeable contract and financial terms and conditions.

Any agreement for the sale of the commodities identified herein shall be governed, performed, interpreted, construed, and enforced according to the laws of the State of (name of U.S. State), and shall be subject to all applicable laws and regulations, and other administrative acts, now or thereafter in effect of the U.S. Government and its departments and agencies.

Any dispute, claim, or controversy connected in any manner with or relating to any of the terms or provision of an ensuing agreement for the sale of the commodities identified herein, or to any breach or to the validity or enforceability thereof, shall be subject to and finally settled by arbitration. The arbitration shall be conducted in the name of City/State, in accordance with the rules of Conciliation and Arbitration of the International Chamber of Commerce operating and in accordance with the laws of the State of State, U.S.A. These proceedings shall be conducted in the English language.

Should you require any additional information pertaining to this draft contract, please contact Mr./Ms. John/Jane Doe, his/her title, at the letterhead address, telephone, or e-mail john.doe@sellercompany.

Very truly yours,

/signed/

Name of contracts manager

Enclosure: Pro Forma Invoice No.

Sample Proposal - Spares

Company X Letterhead

Date

In reply refer to:

XX/XXXX-XXX/XX

Customer Name

Customer Company

Address

Customer City, Country

Attention: Customer Name
 Title

Dear Mr./Ms. Customer:

Subject: Draft, Firm, Fixed Price Contract for
 Product X

Reference: 1) Invitation No. XXX
 2) Purchase Requisition No. XXX

Seller Company is pleased to submit two (2) original copies of a draft, partially executed, firm, fixed, price contract for Product XXX to Customer Company Name. The content of the draft contract includes:

1. Contract Cover Sheet, dated day/month/year.
2. Quotation Summary, dated day/month/year.
3. Price and availability as set forth in Attachment 1, entitled: Commodity Descriptions, dated day/month/year.
4. Manufacturer's Certificate, Attachment 2.
5. Supplier's Certificate, Attachment 3.
6. Special Power of Attorney, Attachment 4.
7. Customer Draft Form/Content of Irrevocable Letter of Credit, Attachment 5.
8. Memorandum, Attachment 6.

Seller Company agrees to sell in compliance with Customer's Invitation to Bid, Special Terms and Conditions, and the Commodity Descriptions attached hereto.

Delivery of Product XXX can begin day/month/year and be completed day/month/year with receipt and acceptance of a contract by Seller Company by day/month/year. Partial shipments shall be allowed at the election of the Seller.

Inspection and acceptance of Product XXX will be made by Seller Company's personnel at its city, state, country facility and will conform to Seller Company's specification. Seller shall pass to Customer Company at (name of ocean/air) Port, Seller's country.

In consideration of Seller Company's performance of its obligations, Customer Company shall issue its confirmed, irrevocable Letter of Credit for a value not less than \$ X,XXX,XXX.00 as noted in the Quotation Summary, in a form compatible with Seller Company's proposal and Attachment G, Customer Draft Form/Content of Irrevocable Letter of Credit. Customer Company will be invoiced for Product XXX at the discounted price.

The prices quoted herein are F.O.B. (name of ocean/airport), Seller's Country, include inspection and packing charges, and are valid to day/month/year. Acceptance of a contract by Seller Company in Seller's country must be on or before this date for the delivery dates proposed to be valid.

Should you require any additional information pertaining to this draft contract, please contact Mr./Ms. John/Jane Doe, his/her title, at the letterhead address, telephone, or e-mail john.doe@sellercompany.com.

Very truly yours,

Name

Contracts manager

Enclosures

P.R. No. XXX-Date: XX XXX 20XX

Contract No.

Invitation No. XXX-0000

CONTRACT COVER SHEET

Customer Company agrees to buy and Seller Company agrees to sell in compliance with I. Invitation, II Special Terms and Conditions, II General Terms and Conditions, and IV Commodity Descriptions attached hereto.

Signed at:

Seller Company Location

This day of Month, Year

Seller Company

Address

Signed at:

Customer Company Location

This day of Month, Year

Customer Company

Address

Name

Title

Seller Company Name

Name

Title

Customer Company Name

Quotation Summary

P.R. No. XXX-

Date: day/month/year

Project: Product XXX Invitation No. XXX-0000

Contract No. XXX-XXX-XXX

L/I	Stock & Part No. Nomenclature	Qty	Unit Price	Total Price (USD)
Group I	Product XXX	-	-	\$X,XXX,XXX.00
Less Twenty Percent (20%) Discount (Applied to all items except X to be provided on an exchange basis.)				\$ XXX,XXX.00
Grand Total				\$X,XXX,XXX.00

* Two percent (2%) - USD \$XX,XXX.00 The representative fee is included in the above Grand Total amount.

NAME OF REPRESENTATIVE FIRM: Representative Company Name

ADDRESS OF REPRESENTATIVE FIRM: Address of Representative Company

NOTE: I. Inspection and Packing Charges are included in the Total Price.

TERMS AND CONDITIONS:

1. Payment:	To be made by irrevocable letter of credit at sight in accordance with Attachment 5 in favor of Seller Company, Seller address, city, state, country.
2. Delivery:	Between day/month year and day/month/year.
3. Packing:	Seaworthy Export Standard Packing.
4. Inspection:	To be made by the manufacturer, Seller Company. Inspection Certificate(s) must be provided.
5. Material Condition:	New manufacture.
6. Partial Shipment:	Allowed.
7. Shipping Port:	Name of air/ocean port.
8. Discharging Port:	Name of in-country air/ocean port.
9. Remittance Certificate	In duplicate issued by the Negotiating Bank in the amount of two percent (2%) - USD \$ XX,XXX.00 - as Representative Fee addressed to name of Representative Company, city, country name, shall be attached to the shipping documents covering each shipment allowed by partial shipment.
10. Shipping Notice:	Will be e-mailed to Name of Customer Company and opening Bank at Latest five (5) days prior to the anticipated shipping date to prevent the Delay in shipping, containing such as L/C no., Contract no., Invoice, Value, Amount of Shipment.

NAME OF FIRM: Seller Company name

ADDRESS OF FIRM: Seller Company address

(Signed) Date

Contract Manager Name

Seller Company Name

Attachment I: Commodity Description

P.R. No: XXX-0XXX Date: day/month/year

Project: Product XXX Page I of X

Group No. I

Firm: Seller Company Name

L/I	L/I	Stock	Nomenclature	Budget	Qty	Unit Price
	No.	Part No.				Total Price
1	I	XXXXXXXX	WIDGET	6	110	\$X,XXX.XX \$X,XXX.XX
2	I	XXXXXXXX	WIDGET	6	10	\$XX.XX \$X,XXX.XX
					Total	\$X,XXX,XXX.00

Attachment 2: Manufacturer's Certificate

Date: day/month/year

From: Seller Company Name

Seller Country Name

To: Customer Company Name

Customer Country Name

Manufacturer's Certificate

Invitation No. XXX-0000

P.R. No. XXX-0XXX

We, as Manufacturer, certify that our warrant is duly passed to the Purchaser for the specifications of the commodity requested.

(Signed)

Date

Contract Manager Name

Seller Company Name

Attachment 3: Supplier's Certificate

Date: day/month/year

From: Seller Company Name
Seller Country Name

To: Customer Company Name

Customer Country Name

Supplier's Certificate

Invitation No. XXX-0000

P.R. No. XXX-0XXX

We will take full responsibility and obligation for the accomplishment of the Contract in accordance with all the Conditions and Special Instructions for the Contract between Customer Company Name and Seller Company name.

(Signed) Date

Contract Manager Name

Seller Company Name

Attachment 4: Special Power of Attorney

THE UNDERSIGNED, acting in his capacity of President of Seller Company Name, a corporation duly incorporated and validly existing in accordance with the last of the State of (name of state), United States of America, with main domicile in city, name of State, U.S.A., hereby grants a Special Power of Attorney, both ample and sufficient to name of Representative Company president, domiciled in city, name of country, in order that he, acting for and on behalf of Seller Company name and in its name and place, and stead, and for its use and benefit:

Submit a proposal, provided the same is signed by a duly authorized officer of Seller Company name, and establish a bid bond to the Customer Company in the name of the Seller Company.

PROVIDED, HOWEVER, nothing contained herein shall authorize name of Representative Company president to execute any contracts or to accept service of process on behalf of Seller Company name.

THIS POWER OF ATTORNEY, to be relied on by Customer company and its successors and assigns for the period from the date of signature through December 31, 20XX, or until further written notice of revocation of the appointment is received by Customer Company name, whichever is earlier, is granted only to comply with the provisions of the Invitation for Bid of the Customer Company name and is limited to the above-mentioned acts.

IN WITNESS WHEREOF, the Seller Company name has caused this Power of Attorney to be executed by its duly authorized officers as of **XX month 20XX**.

Seller Company name

By (name), President

Signed

State of (U.S. State)

County of (U.S. State)

The foregoing instrument was acknowledged before me on this day ____ of month, 20XX, by name of seller company president, a (name of U.S. State), on behalf of the corporation.

Name of Notary Public

My Commission expires month/day/year

The undersigned Notary Public certifies that name of Seller Company president appeared before me and signed the preceding Power of Attorney and that I know him personally and I am certain that he has the legal capacity to grant it and that he is President of name of Seller Company, and is consequently authorized to grant this Power of Attorney and that the named company exists and is organized in name of U.S. state, in conformity with the laws of the name of U.S. State, U.S.A. and is domiciled in City, name of State, U.S.A. And that the act for which this power is granted is included among those which constitute the corporate object of the named company.

I am certain of all these facts because I have examined the documents consisting of the Bylaws of the name of the Seller Company to which I attest.

Name of Notary Public

My Commission expires month/day/year

Attachment 5: Form/Content of Irrevocable Letter of Credit

(Application for Irrevocable Documentary Credit)

Contract No.	Credit No.
Issuing Bank	Applicant:
	Name of Customer Company
Advising Bank:	Beneficiary:
Name of Advising Bank	Name of Seller Company
Reimbursing Bank:	Latest Shipping Date
Name of Reimbursing Bank	Date and place of expiry of the credit:
Trade Terms: F.O.B. name of air/ocean port, U.S.A.	Partial shipments: Allowed
Loading on board/dispatch taking in charge from:	Transshipment: not allowed
Name of air/ocean port, U.S.A.	
Port of discharge: or Place of Final Destination: Name of air/ocean port, Customer country	Credit available with By sight payment
Issue of the credit: Issue by air mail	

Document(s) required:

1. Signed commercial invoices in quintuplicate (one original and four copies).
2. Shipping information by cable/telex/e-mail in quintuplicate (one original and four copies).
3. Manufacturer's inspection certificate in quintuplicate (one original and four copies).
4. Remittance certificate in duplicate (one original and one copy).
5. Packing list in quintuplicate (one original and four copies).

Covering: Product XXX

F.O.B name of air/ocean port, U.S.A. USD \$X,XXX,XXX.00

Attachment 6: Memorandum

Seller Company Name

Date: day/month/year

Ladies and Gentlemen:

We, the undersigned, hereby certify and/or guarantee the following:

1. All matters concerning this sale shall be held as "Confidential."
2. This memorandum shall constitute a part of the contract.
3. All prices quoted do not exceed the regular domestic prices as adjusted by the export differential, and that such prices are not higher than those charged to any other purchasers similarly situated at the time the contract is made.

(Signed) Date

Contract Manager Name

Seller Company Name

Notes

Part I: Introducing Growth in Global Markets

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- x International Chamber of Commerce (ICC) Publishing Corporation, Inc., 156 Fifth Avenue, Suite 820, New York, NY 10010; telephone 212-206-1150. <https://iccwbo.org/>
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- xii Turn-key contract. Term used in building trade to designate those contracts in which the builder agrees to complete work of building and installation to the point of readiness for occupancy. Ref. Black, H. C. (1979). *Black's Law Dictionary* (5th ed.). St. Paul, MN: West Publishing Co., p. 1359.
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- xiv Licensing – The sale of a license permitting the use of patents, trademarks, or other technology to another firm. A written authority granted by the owner of a patent to another person empowering the latter to make or use the patented article for a limited period or in a limited territory. Permission to use a trademark in an area where the purported owner's goods have not become known and identified by his use of mark Ref. Black, H. C. (1979). *Black's Law Dictionary* (5th ed.), pp. 829–831.
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- xxiii Franchise. A license from the owner of a trademark or trade name permitting another to sell a product or service under that name or market. The franchisee undertakes to conduct a business or a sell a product or service in accordance with methods and procedures prescribed by the franchisor, and the franchisor undertakes to assist the franchisee through advertising, promotion, and other advisory services. Ref. Black, H. C. (1979). *Black's Law Dictionary* (5th ed.), p. 592.
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- xxiii <https://f45training.com.au/own-an-f45/>
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- xxvii See *Global Franchise* magazine at <http://www.globalfranchisemagazine.com/> for the latest franchise offerings and events.
- xxviii https://www.globalfranchisemagazine.com/assets/download/GF_ISS_5.pdf
- xxix An inventory strategy companies employ to increase efficiency and decrease waste by receiving goods only as they are needed in the production process, thereby reducing inventory costs.
- xxx A corporation that has joined with other individuals or corporations within the corporate framework in some specific undertaking commonly found in oil, chemical, electronic, and atomic fields. Ref. Black, H. C. (1979). *Black's Law Dictionary* (5th ed.), p. 309.

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- xxii A website providing product or service information.
- xxiii A website that establishes new trading relationships between companies or one that supports existing relationships.
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- xxxii <http://www.toptenreviews.com/business/marketing/best-email-marketing-services/>
- xxxiii The buying and selling of goods and services, or the transmitting of funds or data, over an electronic network, primarily the Internet. These business transactions occur either as business-to-business, business-to-consumer, consumer-to-consumer, or consumer-to-business.
- xxxiv The buying and selling of goods and services through wireless handheld devices such as cellular telephones and personal digital assistants (PDAs). Known as next-generation e-commerce, m-commerce enables users to access the Internet without needing to find a place to plug in.

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- iv An analytical technique for developing meaningful subgroups of individuals or objects based on similarities. Ref. Hair, J. E., Anderson, R. E., Tatham, R. L., & Black, W. C. (1998). *Multivariate Data Analysis* (5th ed.). Upper Saddle River, NJ: Prentice Hall, p. 15.
- v An emerging dependence technique enabling researchers to assess the importance of product and service attributes (e.g., price, quality, and color) as well as the levels of each attribute while consumers evaluate a few product profiles. Ref. Hair et al. (1998). *Multivariate Data Analysis* (5th ed.), p. 15.
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- iii The Center for Export Readiness Training and Services *Defining Export Readiness*. Retrieved from <http://www.export-ready.com/eris/DefiningExportReadiness.pdf>
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Chapter 10: Your Global Market Entry Plan

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- iii <http://www.heritage.org/index/country/canada>
- iv Typical manner in which consumers purchase goods or services (or firms place their purchase orders) in terms of amount, frequency, timing, etc.

Chapter 11: Complying with the Law at Home and Abroad

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- vi <https://www.bis.doc.gov/index.php/regulations/commerce-control-list-ccl>
- vii No License Required (NLR) is the designation given to commodities and related technology that do not require a license to be exported out of the United States. Most exports from the United States do not require a license, and are therefore exported under the designation NLR. NLR designated exports include those items not listed on the [Commerce Control List \(CCL\)](#) or those items that are listed on the CCL, but are being exported to countries for which the federal government does not require a license.
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- xi <https://bis.doc.gov/index.php/compliance-a-training/export-administration-regulations-training/seminar-email-notification-service>
- xii <https://bis.doc.gov/index.php/forms-documents/regulations-docs/142-eccn-pdf/file>
- xiii https://www.pmddtc.state.gov/regulations_laws/itar.html
- xiv The full text of the ITAR (22 C.F.R. Parts 120 to 130), including the United States Munitions List, is posted at <https://www.ecfr.gov/cgi-bin/text-idx?SID=86008bdfdd1fb2e79cc5df41a180750a&node=22:1.0.1.13.58&rgn=div5>
- xv https://www.pmddtc.state.gov/regulations_laws/itar.html
- xvi Electronic Code of Federal Regulations, ITAR Part 120, [§120.6](#), **Defense article** means any item or technical data designated in §121.1 of this subchapter. The policy described in §120.3 is applicable to designations of additional items. This term includes technical data recorded or stored in any physical form, models, mockups or other items that reveal technical data directly relating to items designated in §121.1 of this subchapter. It also includes forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacturing where they are clearly identifiable by mechanical properties, material composition, geometry, or function as defense articles. It does not include basic marketing information on function or purpose or general system descriptions.

- xvii Electronic Code of Federal Regulations, ITAR Part 120, [§120.9](#), **Defense service** means: (1) The furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles; (2) The furnishing to foreign persons of any technical data controlled under this subchapter (see §120.10), whether in the United States or abroad; or (3) Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the United States or abroad or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice. (See also §124.1.)
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- xix https://www.pmddtc.state.gov/documents/ddtc_getting_started.pdf
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- xxii EAR Part 758.6, Destination Control Statement and Other Information Furnished to Consignees. (a) I. “These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end -user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations” Retrieved from <https://www.bis.doc.gov/index.php/documents/regulation-docs/426-part-758-export-clearance-requirements/file> at page 9.

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- xxiv https://www.pmddtc.state.gov/regulations_laws/itar.html
- xxv <https://www.bis.doc.gov/index.php/regulations/commerce-control-list-ccl>
- xxvi EAR99 - items generally consist of low-level technology, consumer goods, etc., and do not require a license in most situations. See the U.S. Department of Commerce, Bureau of Industry and Security's [Know the Facts Before You Ship: A Guide to Export Licensing Requirements](#).
- xxvii <https://www.bis.doc.gov/index.php/forms-documents/regulations-docs/430-part-764-enforcement-and-protective-measures/file>
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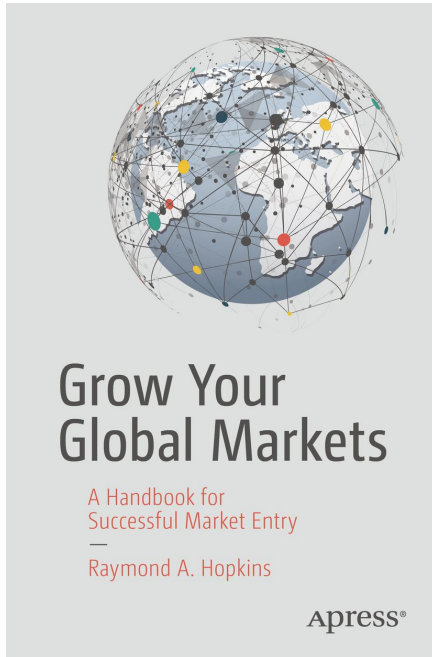
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Raymond A. Hopkins

Grow Your Global Markets

A Handbook for Successful Market Entry

- Teaches exporting and foreign market entry alternatives in a “simplified” approach
- Shows you how to discover your exportable products, emerging services, target market selection, and the ropes of selecting foreign representation
- Explains the transaction tools you need to ensure that you get paid in the international marketplace

Use this comprehensive primer to simplify exporting, discover exportable products and services, and determine and select the best target market entry alternative while ensuring that you get paid. US small- to medium-size business owners (SMEs with less than 500 employees) interested in entering foreign markets will learn how to overcome the most significant challenges and barriers to entering foreign markets. Firms operate in a worldwide economy responsible today for 40 million US trade-dependent jobs and approximately six million US factory jobs—roughly half of all manufacturing employment, whether or not they have any interest in global business activities. In the face of globalization, small businesses must evaluate their strengths, weaknesses, opportunities, and threats and then develop strategies that effectively respond to the globalized business environment in which they operate. If your firm is growth-oriented—and what business is not?—you should grow global markets as an important strategic option allowing you to: Reach new customers/markets with little or no competition Reduce dependence on a limited number of major customers Even out business cycle-related demand fluctuations Extend the life of niche products to new markets Develop a global network of contacts and partners that improves their offerings to established customers What You'll Learn Determine your role in global markets Identify target markets and find customers Negotiate around the world Complete the transaction and understand international trade procedures and regulations Understand the keys to global market growth Follow sample forms and sales proposals Who This Book Is For US small- to medium-sized business owners

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Part of **SPRINGER NATURE**

From: Jon Dunham
To: [Cownie, Frank](#)
Subject: EPA Inspector General's new report
Date: Monday, September 21, 2015 9:53:14 AM
Attachments: [EPA_OIG_CSOTracking \(1\).pdf](#)

Attn: T.M. Franklin Cownie

**I have attached the latest (9/16/2015)
Inspector General Report...**

**“EPA Needs to Track Whether It’s Major
Municipal Settlements for Combined
Sewer Overflows Benefit Water Quality”**

**This may be of interest to you as I am trying to help keep
you informed.**

Jon Dunham, Key Account Manager
T.M. Franklin Cownie

Security settings or invalid file format do not permit using EPA_OIG_CSOtracking (1)20150921 095314.pdf (1107977 Bytes).

From: Dorothy McGinnis
To: [Adams, Barb](#); [Anderson, Marti](#); [Austen, Joe B.](#); [Basinger, Jean](#); [Bettis, Rita](#); [Bomhoff, Teresa](#); [Brizzi, Karla](#); [Bromwell, Karla](#); [Burns, Rachel](#); [Campbell, Amy](#); [Carmichael, Pam](#); [Coppola, Cyndy](#); [Cownie, Frank](#); [Davydov, Kelly](#); [Dirks, Judy](#); [Eagle, Joyce](#); [Fleming, Gino](#); [Fortney, Robin](#); [Franklin-Devine, Phyllis](#); [Gerken, Christie](#); [Hawk, Shari](#); [Hayes, Lorrie and Michael](#); [Hibbs, Carol and Rolland Riley](#); [Hill, Jessie](#); [Hutchison, Sherry](#); [Kahoun, Kathy](#); [Kaufman, Gary](#); [Lehl, Deanna](#); [Matson, Heather](#); [McCoy, Matt](#); [McGinnis, Dottie](#); [McMahon, Julie](#); [Meylor, Susan](#); [Miller, MaryEllen](#); [Nelson, Charlotte](#); [Newlin, Doris Jean](#); [O'Shea, Noreen](#); [Outcalt, John](#); [Owens, June](#); [Pederson, Sally](#); [Person, Karen](#); [Petersen, Janet](#); [Racki, Joan](#); [Reynolds, Stephanie](#); [Rowe, Rachelle](#); [Staples, Marilyn](#); [Turner, Deborah](#); [Weiner, Margaret](#); ["Zimmerman, Sandy"](#)
Subject: Emailing: book event 2017 last reminder
Date: Tuesday, January 31, 2017 7:24:47 PM
Attachments: [book event 2017 last reminder.docx](#)

Please see the attached flyer as a reminder of our book event,

Thanks. I hope you can attend.

Dorothy McGinnis

Your message is ready to be sent with the following file or link attachments:

book event 2017 last reminder

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Please consider attending our book discussion event this coming Saturday. The League board meeting will be held immediately after at the same location. Feel free to attend even if you have not had the opportunity to read the book. The general topic of voting rights and other citizen concerns will be discussed.

All are welcome/encouraged to attend.

League of Women Voters Metro Des Moines

February Book Discussion Event

GIVE US THE BALLOT

By Ari Berman

About the modern struggle for voting rights in America.

Johnston Public Library – 6700 Merle Hay Road

Saturday, February 4 10:00 – Noon

This book is especially fitting for our consideration because of recent D.C. news about investigating voter fraud and possible state bill regarding voter ID.

From: [Anderson, Matthew A.](#)
To: bgray@nacr.com; BobM@FNGI.net; colemanseven@mchsi.com; fcownie@mac.com; hensley.chrissteve@gmail.com; [Joe Gatto \(jgatto67@msn.com\)](mailto:Joe.Gatto.(jgatto67@msn.com)); [Moore, Skip](#)
Cc: [Olson-Douglas, Erin](#); [Sanders, Scott E.](#); [Metzger, Carl M.](#); [Hulse, Larry D.](#)
Subject: Events Center Hotel Update
Date: Tuesday, September 01, 2015 4:29:00 PM
Attachments: [IRA follow-up memo-090115.pdf](#)

Mayor and Council – I thought you might like to see the attached Events Center Hotel update Erin provided to the Iowa Economic Development Authority today. The IEDA board had requested this Sept. 1 update as part of their award earlier this summer. The development team and a small tribe of lawyers have been hard at work the last couple months and we're making great progress.

Thanks
-Matt

Matthew A. Anderson
Assistant City Manager
400 Robert D. Ray Drive
Des Moines, IA 50309
(515) 283-4055 - Office
(515) 422-0999 - Mobile



1 September 2015

To: Alaina Santizo
Project Manager, Iowa Economic Development Authority

From: Erin Olson-Douglas
Economic Development Coordinator

CC: Matt Anderson, City of Des Moines
Mark Wandro, Polk County
Tim Leach, Greater Des Moines Partnership
Tim Oswald, Piper Jaffray

Re: Iowa Convention and Entertainment Reinvestment District – September update

Dear Alaina,

We are pleased to provide you with the following update on the progress for identifying the hotel operator and budget/financing for the hotel:

Hotel Operator:

On August 28, 2015, the IEC Corporation Board approved the term sheet with Hilton Worldwide, Inc. The attached resolution outlines the process, selection, and negotiations. Should the IEDA Board be interested in the full term sheet, it can be provided.

Budget and Financing:

There are few revisions to the project budget. DSM Convention Hotel, LLC (the entity formed by Weitz to design-build the hotel) continues to test the research and assumptions made in the final IRA application; this prior work has proven to be sound. Work on the design of the hotel is progressing. Presentation of the schematic design, including an updated construction cost estimate, is expected at the September 9 IEC Hotel Corporation Board meeting. The sources/uses update is attached. DSM Convention Hotel secured a construction loan commitment letter from Banker's Trust. We have an agreeable term sheet from CMB for the EB-5 financing. EB-5 is up for renewal in Congress; completing the EB-5 transaction will require renewal of the program. The full contents of these materials can be made available to IEDA; please let us know if you would like this level of detail.

The update on the operations performa is similar to the budget update – little change to report. The operations budget been confirmed in two ways this summer:

- HVS was retained for a market study to secure the financing for the hotel
- Hilton presented a performa as a part of their proposal to become the hotel's operator

Independently, they came to similar conclusions as the C.H. Johnson study presented in the final IRA application. Both of these materials can be made available to IEDA should there be interest in the details of their contents.

The development agreement between the IEC Hotel Corporation, Polk County and the City of Des Moines has been drafted. Execution is expected this fall and will finalize the financial commitments outlined in the final IRA application and will begin the process of securing the long-term financing of the hotel. Polk County submitted an updated application to the State's Brownfield/Grayfield Tax Credit program. No change to the framework provided in the IRA application is expected.

RESOLUTION

MOVED by Mike Galloway SECONDED by Allen McKinley
that the following Resolution be adopted:

WHEREAS, In May of 2015, a Request For Qualifications (RFQ) was initiated by Professional Management Consultants, LLC; and,

WHEREAS, at the July 28, 2015 IEC Hotel Corporation Board of Directors meeting, Professional Management Consultants, LLC briefed the IEC Board as to the submissions received in response to the RFQ; and

WHEREAS, based upon the briefing, recommendations and discussions, the IEC Board approved an engagement agreement with Kutak Rock, LLP to assist in negotiating a Term Sheet with Hilton Worldwide, Inc.; and,

WHEREAS, Hilton Worldwide, Inc. has accepted and approved the attached Term Sheet proposed by the IEC Hotel Corporation Board; and,

WHEREAS, said Term Sheet will form the basis of a potential Management Agreement with Hilton Worldwide, Inc., but the Term Sheet is not in fact an actual management agreement; and,


NOW, THEREFORE, BE IT RESOLVED that the IEC Hotel Corporation Board does hereby approve the Term Sheet with Hilton Worldwide, Inc. and authorizes the Board President to sign the term sheet.

IEC Hotel Corporation



President

RECOMMENDED FOR APPROVAL



Mark Wandro
IEC Hotel Corporation Staff

Sources & Uses of Funds - Construction of Project by DSM LLC

Uses of Funds

Construction & Related Costs

Land	
Abatement & Demo	
Design Fees	4,630,411
Construction contract	66,303,204
FF&E/IT	14,381,670
Insurance	115,351

Sub-total Constructino & Related: 85,430,636

Financing Costs - Bank

Loan Origination Fee	679,092
Appraisal/Review	10,000
Inspection fees	24,000
Environmental Reports/Review	10,000
Title Work	1,500
Bank Legal	30,000
Flood Certs/Filing Fees:	300

Sub-total Bank Financing: 754,892

Financing Costs - EB5

Loan Origination fee	200,000
EB-5 Legal	30,000
Filing Fees	300
Other	

Sub-total EB-5: 230,300

County Financing Costs

QMA Legal Counsel	80,000
IEC Counsel	95,000
Bond Counsel	225,000
Financial Advisory	900,000
Other	

Sub-total County Financing Costs 1,300,000

Other

Construction interest cost (Bank & EB-5)	3,430,000
Surety Bond	260,000
Contingency	4,271,627

Sub-total Other: 7,961,627

GRAND TOTAL: 95,677,455

Sources of Funds

Loans to DSM Hotel LLC

EB-5 Construction Loan:	20,000,000
Less Holdback on EB-5	-1,325,000
Loan A	37,329,743
Loan B	14,145,145
Loan C	14,200,000
Loan D	11,327,567

Sub-total, loans to DSM Hotel: 95,677,455

GRAND TOTAL 95,677,455

Surplus (Deficit) of Sources Over Uses:

0

Sources & Uses of Funds - Acquisition by IEC Hotel Corp from DSM LLC

Uses of Funds

Acquisition of Project

Purchase of Facility from DSM:	95,677,455
Miscellaneous	
Miscellaneous	
Miscellaneous	
Miscellaneous	

Sub-total Constructino & Related: 95,677,455

Financing Costs - Lease Purchase Certificates

Bond Counsel - Senior hotel	50,000
Bond Counsel - Senior IRA	75,000
Bond Counsel - Sub IRA	50,000
Bond Counsel - Facility fee	50,000
Rating fee - Sub IRA	50,000
Rating fee - Facility Fee	50,000
Disclosure Counsel - Senior IRA	50,000
Disclosure Counsel - Subordinate IRA	50,000
Disclosure Counsel - Facility Fee	50,000
Disclosure Counsel - Senior hotel	50,000
Financial Advisor - Senior hotel	189,623
Financial Advisor - IRA (all 3)	102,561
Financial Advisor - Facility Fee	42,047
Financial Advisor - TIF (2 issues)	71,000
Borrower's Counsel	100,000
Underwriting Costs, Senior IRA	195,123
Underwriting Costs, Subordinate IRA	52,560
Underwriting Costs, Senior hotel	758,494
Underwriting Costs, Facility Fee	126,141
Miscellaneous	
Miscellaneous	

Sub-Total Financing Issuance Costs 2,162,549

Working Capital & Debt Reserve Funds

Operating Capital	500,000
Working Capital	1,500,000
Reserve over year 1 losses	0
Debt Reserve - Senior Lease	2,692,779
Debt Reserve - Senior IRA	1,247,785
Debt Reserve - Subordinate IRA	313,660
Debt Reserve - Biz Community IRA	400,000
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Debt Reserve, Subordinate Lease	

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Surety Bond
Contingency

Sub-total Debt Reserve Funds 7,185,521

GRAND TOTAL: 105,025,525

Surplus (Deficit) of Sources Over Uses:

Sources of Funds

Bonds issued by City of Des Moines

General Obligation TIF	9,000,000	less est fees
Annual App GO TIF	5,199,998	less est fees
Business Community Senior IRA	4,000,000	
Senior Lien IRA:		
Miscellaneous		
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Senior Lien IRA Lease Series D	13,008,182
Subordinate lien IRA Lease Series E	3,503,995
Miscellaneous	

Sub-total, Lease issued by IEC Hotel Corp. 82,846,272

Financing From Other Sources

Key Money	3,000,000
Brownfield Grant	1,000,000
Less Brownfield Administration	-20,000
Miscellaneous	
Miscellaneous	
Miscellaneous	
Miscellaneous	
Miscellaneous	
Miscellaneous	

Sub-Total, Financing From Other Sources: 3,980,000

GRAND TOTAL 105,026,270

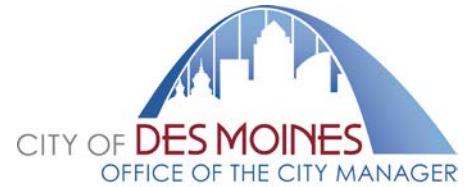
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From: [Anderson, Matthew A.](#)
To: bgray@nacr.com; BobM@FNGI.net; colemanseven@mchsi.com; fcownie@mac.com; [Hensley, Christine L. \(External\)](#); [Joe Gatto \(jgatto67@msn.com\)](mailto:Joe Gatto (jgatto67@msn.com)); [Moore, Skip](#)
Cc: [Olson-Douglas, Erin](#); [Sanders, Scott E.](#); [Metzger, Carl M.](#); [Hulse, Larry D.](#)
Subject: Events Center Hotel Update
Date: Tuesday, September 01, 2015 4:29:43 PM
Attachments: [IRA follow-up memo-090115.pdf](#)

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Thanks
-Matt

Matthew A. Anderson
Assistant City Manager
400 Robert D. Ray Drive
Des Moines, IA 50309
(515) 283-4055 - Office
(515) 422-0999 - Mobile



1 September 2015

To: Alaina Santizo
Project Manager, Iowa Economic Development Authority

From: Erin Olson-Douglas
Economic Development Coordinator

CC: Matt Anderson, City of Des Moines
Mark Wandro, Polk County
Tim Leach, Greater Des Moines Partnership
Tim Oswald, Piper Jaffray

Re: Iowa Convention and Entertainment Reinvestment District – September update

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Miscellaneous	
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GRAND TOTAL 105,026,270

745

From: [Rauh, Diane J.](#)
To: [Cownie, Frank](#)
Subject: Extra 1-2-3
Date: Monday, February 22, 2016 12:04:00 PM
Attachments: [20160222120214789.pdf](#)

As requested.

Ex 3

Rauh, Diane I.

From: Coleman's <colemanseven@mchsi.com>
Sent: Monday, February 22, 2016 11:32 AM
To: Rauh, Diane I.; Gatto, Joe P.
Cc: Sanders, Scott E.
Subject: Extra Item, Council today

Diane,

Hope all is good.

Joe Gatto and I would jointly request an extra item related to "city's plan and timeline for city hall move".

It has been since our last meeting that official communication to the employees was sent. We think waiting two weeks for a fuller discussion is problematic.

Specifically, we will be asking for a plan on how we can get a contractor hired BEFORE we exit the existing building.

You may include this communication with Council Documents.

Chris (and Joe)

From: CDM-Broadcast
Sent: Monday, February 15, 2016 4:33 PM
To: CDMStaff <CDMStaff@dmgov.org>
Subject: City Hall Move - Please Post!

City Hall Employees –

As most of you have heard, on April 1st City Hall staff will be moving out of the historic City Hall for a period of 18-24 months. During this time, the City Clerk, City Manager, Engineering, Finance, and Legal Departments will be relocating to 400 E. Court Avenue. The Human Resources Department will relocate to the lower level of the Armory Building.

What this means for you:

EX 3

- If you are in one of the departments moving to 400 E. Court, the new space will be approximately 23,000 square feet. This is a little over half of the existing space we have in City Hall today.
- Because of the reduced space, there will be some adjustments to the physical layout of our departments. Office furniture will be largely provided.
- We will not be able to accommodate all physical files in the new space, so please review how often you use your existing files. This will be critical to determining which files will be relocated to your new space, storage space within 400 E Court, or another City-owned facility.
- Starting in mid-March, R&R Realty will deliver boxes and labels to your departments. It will be your responsibility to place your work-related belongings into boxes with your labels. All personal belongings will be your responsibility to relocate to your new workspace. Due to space limitations, please be considerate of the number of personal belongings you plan to take with you.
- The Council Chambers will still be in use until June 1, 2016. After that date, all meetings currently held in Chambers will be relocated to the 2nd floor of the Richard A. Clark Municipal Service Center Ashworth/Greenwood conference rooms.
- Office leads have been identified for the move. If you have any questions, please direct them to your office lead. They are:
 - ◦ Diane Rauh, City Clerk's Office;
 - ◦ Laura Graham, City Manager's Office;
 - ◦ Calvin Miller, Engineering;
 - ◦ Dan Ritter, Finance; and
 - ◦ Jeff Lester, Legal

Thank you for your patience and cooperation as we work through this transition. Additional information and an FAQ will be available in the coming weeks as we prepare for relocation.

Marcie and Chris

Thanks. Have a great day.

From: [Rauh, Diane J.](#)
To: [Cownie, Frank](#)
Subject: Extra 1-2-3
Date: Monday, February 22, 2016 12:04:18 PM
Attachments: [20160222120214789.pdf](#)

As requested.

Ex 3

Rauh, Diane I.

From: Coleman's <colemanseven@mchsi.com>
Sent: Monday, February 22, 2016 11:32 AM
To: Rauh, Diane I.; Gatto, Joe P.
Cc: Sanders, Scott E.
Subject: Extra Item, Council today

Diane,

Hope all is good.

Joe Gatto and I would jointly request an extra item related to "city's plan and timeline for city hall move".

It has been since our last meeting that official communication to the employees was sent. We think waiting two weeks for a fuller discussion is problematic.

Specifically, we will be asking for a plan on how we can get a contractor hired BEFORE we exit the existing building.

You may include this communication with Council Documents.

Chris (and Joe)

From: CDM-Broadcast
Sent: Monday, February 15, 2016 4:33 PM
To: CDMStaff <CDMStaff@dmgov.org>
Subject: City Hall Move - Please Post!

City Hall Employees –

As most of you have heard, on April 1st City Hall staff will be moving out of the historic City Hall for a period of 18-24 months. During this time, the City Clerk, City Manager, Engineering, Finance, and Legal Departments will be relocating to 400 E. Court Avenue. The Human Resources Department will relocate to the lower level of the Armory Building.

What this means for you:

EX 3

- If you are in one of the departments moving to 400 E. Court, the new space will be approximately 23,000 square feet. This is a little over half of the existing space we have in City Hall today.
- Because of the reduced space, there will be some adjustments to the physical layout of our departments. Office furniture will be largely provided.
- We will not be able to accommodate all physical files in the new space, so please review how often you use your existing files. This will be critical to determining which files will be relocated to your new space, storage space within 400 E Court, or another City-owned facility.
- Starting in mid-March, R&R Realty will deliver boxes and labels to your departments. It will be your responsibility to place your work-related belongings into boxes with your labels. All personal belongings will be your responsibility to relocate to your new workspace. Due to space limitations, please be considerate of the number of personal belongings you plan to take with you.
- The Council Chambers will still be in use until June 1, 2016. After that date, all meetings currently held in Chambers will be relocated to the 2nd floor of the Richard A. Clark Municipal Service Center Ashworth/Greenwood conference rooms.
- Office leads have been identified for the move. If you have any questions, please direct them to your office lead. They are:
 - ◦ Diane Rauh, City Clerk's Office;
 - ◦ Laura Graham, City Manager's Office;
 - ◦ Calvin Miller, Engineering;
 - ◦ Dan Ritter, Finance; and
 - ◦ Jeff Lester, Legal

Thank you for your patience and cooperation as we work through this transition. Additional information and an FAQ will be available in the coming weeks as we prepare for relocation.

Marcie and Chris

Thanks. Have a great day.

From: [Sanders, Scott E.](#)
To: [Gray, William S.](#); [Coleman, Chris](#); [Hensley, Christine L.](#); [Cownie, Frank](#); [Gatto, Joe P.](#); [Moore, Skip](#); [Westergaard, Linda C.](#)
Subject: FW: 06-02-17 Council question - Eagleville MO fireworks - Shelton's Fireworks
Date: Sunday, June 04, 2017 8:29:10 PM
Attachments: [Missouri 2013-fireworks-regulations.pdf](#)
[Missouri Fireworks licensing 11c40-3.pdf](#)

One of the questions asked on Friday entailed how Missouri handles selling of firework. See the response below as to what we found out.

CMO,

Council question: Eagleville, MO, fireworks:

The following is to provide information regarding the council's question regarding how Eagleville, MO, is able to allow the sale of fireworks at locations such as Shelton's Fireworks in the village of Eagleville. In researching this question, I called and spoke with representatives of the Village of Eagleville (City Clerk), the North Harrison Fire Protection District (Fire Chief), who provides fire protection to Eagleville, as well as the Missouri Department of Public Safety (DPS) (Office of the State Fire Marshal):

The Missouri DPS State Fire Marshal has jurisdiction over fireworks rules and regulations in the State of Missouri. The State of Missouri does not have an adopted fire code or building code; however, it allows local jurisdictions to adopt these and similar codes if they choose. Regarding the issuance of fireworks licenses, this is administered by the DPS, as the authority having jurisdiction, and its rules are similar to those proposed by the Iowa State Fire Marshal.

Eagleville is a village in northern Missouri, approximately 10 miles from Iowa, and has a population of 316 persons. Eagleville does not have any local fire or building codes or ordinances. The local fire protection district provides no fire or fireworks inspection or enforcement. Per the City Clerk, the two businesses that sell fireworks in Eagleville do so in the commercial area of the village. While the village does not have a zoning ordinance, it considers this area to be the commercial area because this is where the businesses are.

On December 14, 2005, Eagleville's Shelton's Fireworks burned down. Per the Fire Chief, portions of this fire continued for one month. When it was rebuilt, it included a sprinkler system. Because it was known that a sprinkler system would not have sufficient capacity or water to suppress a similar fire, and that the village's infrastructure does not have sufficient water supply to suppress a similar fire, it was determined that the new facility must include a reservoir/pond from which responding fire apparatus could attempt to draw water.

Unfortunately, there is not an access point and there are no devices or other means from which responding fire apparatus are able to access this water source. The current plan to fight a fire at this facility is to evacuate the facility, let the fire burn itself out, and work to prevent the spread of fire to other combustibles/areas in the community.

Attached are the Missouri fireworks regulations and licensing rules. The link below provides answers to FAQ regarding fireworks in Missouri.

<http://dfs.dps.mo.gov/about/faqs.php#fireworks>

John F. TeKippe, Fire Chief, MPA, EFO
Des Moines Fire Department
2715 Dean Avenue
Des Moines, Iowa 50317-7905
Admin. Phone (515) 283-4237
Cell Phone (515) 321-9588



MISSOURI DIVISION OF FIRE SAFETY

MISSOURI FIREWORKS REGULATIONS

May 20, 2013



DEPARTMENT OF PUBLIC SAFETY
MISSOURI DIVISION OF FIRE SAFETY
OFFICE OF THE STATE FIRE MARSHAL

P.O. Box 844
Jefferson City, Missouri 65102
(573)751-2930
Fax: (573)526-4600
www.dfs.dps.mo.gov

NOTICE

This booklet contains the Missouri law, including the most recent legislative changes.

If you are involved in Missouri's fireworks industry it is your responsibility to be familiar with and know the law as outlined in this booklet.

Revised: 05/20/13

Missouri Revised Statutes
Fireworks Regulations

320.106.

Definitions.

As used in sections 320.106 to 320.161, unless clearly indicated otherwise, the following terms mean:

- (1) "American Pyrotechnics Association (APA), Standard 87-1", or subsequent standard which may amend or supersede this standard for manufacturers, importers and distributors of fireworks;
- (2) "Chemical composition", all pyrotechnic and explosive composition contained in fireworks devices as defined in American Pyrotechnics Association (APA), Standard 87-1;
- (3) "Consumer fireworks", explosive devices designed primarily to produce visible or audible effects by combustion and includes aerial devices and ground devices, all of which are classified as fireworks, UN0336, within 49 CFR Part 172;
- (4) "Discharge site", the area immediately surrounding the fireworks mortars used for an outdoor fireworks display;
- (5) "Dispenser", a device designed for the measurement and delivery of liquids as fuel;
- (6) "Display fireworks", explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, UN0333 or UN0334 or UN0335, within 49 CFR Part 172;
- (7) "Display site", the immediate area where a fireworks display is conducted, including the discharge site, the fallout area, and the required separation distance from mortars to spectator viewing areas, but not spectator viewing areas or vehicle parking areas;
- (8) "Distributor", any person engaged in the business of selling fireworks to wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary permits as specified in sections 320.106 to 320.161, including any person that imports any fireworks of any kind in any manner into the state of Missouri;
- (9) "Fireworks", any composition or device for producing a visible, audible, or both visible and audible effect by combustion, deflagration, or detonation and that meets the definition of consumer, proximate, or display fireworks as set forth by 49 CFR Part 171 to end, United States Department of Transportation hazardous materials regulations;
- (10) "Fireworks season", the period beginning on the twentieth day of June and continuing through the tenth day of July of the same year and the period beginning on the twentieth day of December and continuing through the second day of January of the next year, which shall be the only periods of time that seasonal retailers may be permitted to sell consumer fireworks;
- (11) "Jobber", any person engaged in the business of making sales of consumer fireworks at wholesale or retail within the state of Missouri to nonlicensed buyers for use and distribution outside the state of Missouri during a calendar year from the first day of January through the thirty-first day of December;
- (12) "Licensed operator", any person who supervises, manages, or directs the discharge of outdoor display fireworks, either by manual or electrical means; who has met additional requirements

established by promulgated rule and has successfully completed a display fireworks training course recognized and approved by the state fire marshal;

- (13) "Manufacturer", any person engaged in the making, manufacture, assembly or construction of fireworks of any kind within the state of Missouri;
- (14) "NFPA", National Fire Protection Association, an international codes and standards organization;
- (15) "Permanent structure", buildings and structures with permanent foundations other than tents, mobile homes, and trailers;
- (16) "Permit", the written authority of the state fire marshal issued pursuant to sections 320.106 to 320.161 to sell, possess, manufacture, discharge, or distribute fireworks;
- (17) "Person", any corporation, association, partnership or individual or group thereof;
- (18) "Proximate fireworks", a chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation, as classified within 49 CFR Part 172 as UN0431 or UN0432;
- (19) "Pyrotechnic operator" or "special effects operator", an individual who has responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special effects for proximate fireworks and who has met additional requirements established by promulgated rules and has successfully completed a proximate fireworks training course recognized and approved by the state fire marshal;
- (20) "Sale", an exchange of articles of fireworks for money, including barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as a principal proprietor, salesman, agent, association, copartnership or one or more individuals;
- (21) "Seasonal retailer", any person within the state of Missouri engaged in the business of making sales of consumer fireworks in Missouri only during a fireworks season as defined by subdivision (10) of this section;
- (22) "Wholesaler", any person engaged in the business of making sales of consumer fireworks to any other person engaged in the business of making sales of consumer fireworks at retail within the state of Missouri.

320.111.

Manufacture, distribution and sale, permit required--issuance, display of, duration--powers and duties of state fire marshal, inspections--fees--rights and obligations of permit holders--rules, procedure--penalty for violation.

1. It is unlawful for any person to manufacture, sell, offer for sale, ship or cause to be shipped into or within the state of Missouri except as herein provided any item of fireworks, without first having secured the required applicable permit as a manufacturer, distributor, wholesaler, jobber or seasonal retailer from the state fire marshal and applicable federal permit or license. Possession of said permit is a condition precedent to manufacturing, selling or offering for sale, shipping or causing to be shipped any fireworks into the state of Missouri, except as herein provided. This provision applies to nonresidents as well as residents of the state of Missouri.
2. The state fire marshal has the authority and is authorized and directed to issue permits for the sale of fireworks. No permit shall be issued to a person under the age of eighteen years. All permits except for seasonal retailers shall be for the calendar year or any fraction thereof and shall expire on the thirty-first day of December of each year.

3. Permits issued must be displayed in the permit holder's place of business. No permit provided for herein shall be transferable nor shall a person operate under a permit issued to another person or under a permit issued for another location. Manufacturer, wholesaler, jobber, and distributor permit holders operating out of multiple locations shall obtain a permit for each location.
4. Failure to make application for a permit by May thirty-first of the calendar year may result in the fire marshal's refusal to issue a license to the licensee or applicant for such calendar year.
5. Any false statement or declaration made on a permit application may result in the state fire marshal's refusal to issue such permit to the requesting person for a period of time not to exceed three years.
6. The state fire marshal is authorized and directed to charge the following fees for permits:
 - (1) Manufacturer, a fee of seven hundred seventy-five dollars per calendar year;
 - (2) Distributor, a fee of seven hundred seventy-five dollars per calendar year;
 - (3) Wholesaler, a fee of two hundred seventy-five dollars per calendar year;
 - (4) Jobber, a fee of five hundred twenty-five dollars per calendar year per sales location;
 - (5) Seasonal retailer, a fee of fifty dollars per calendar year per sales location;
 - (6) Display fireworks, a fee of one hundred dollars per calendar year per location;
 - (7) Proximate fireworks display permit, a fee of one hundred dollars per calendar year per location;
 - (8) Licensed operator, a fee of one hundred dollars for a three-year license;
 - (9) Pyrotechnic operator, a fee of one hundred dollars for a three-year license.
7. A holder of a manufacturer's permit shall not be required to have any additional permits in order to sell to distributors, wholesalers, jobbers or seasonal retailers, or to sell display, or proximate fireworks.
8. A holder of a distributor's permit shall not be required to have any additional permits in order to sell to wholesalers, jobbers, seasonal retailers or to sell display, or proximate fireworks.
9. A holder of a jobber's permit shall not be required to have any additional permit in order to sell consumer fireworks at retail during the fireworks season from such jobber's permanent structure.
10. All fees collected for permits issued pursuant to this section shall be deposited to the credit of the fire education fund created pursuant to section 320.094. Any person engaged in more than one permit classification shall pay one permit fee based upon the permit classification yielding the highest amount of revenue.
11. The state fire marshal is charged with the enforcement of the provisions of sections 320.106 to 320.161 and may call upon any state, county or city peace officer for assistance in the enforcement of the provisions of sections 320.106 to 320.161. The state fire marshal may promulgate rules pursuant to the requirements of this section and chapter 536, RSMo, necessary to carry out his or her responsibilities under this act* including rules requiring training, examination, and licensing of licensed operators and pyrotechnic operators engaging in or responsible for the handling and use of display and proximate fireworks. The test shall incorporate the rules of the state fire marshal, which

shall be based upon nationally recognized standards. No rule or portion of a rule promulgated pursuant to this chapter shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

12. The state fire marshal, upon notification by the department of revenue, may withhold permits from applicants upon evidence that all state sales taxes for the preceding year or years have not been paid; except, this subsection shall not apply if an applicant is pursuing any proper remedy at law challenging the amount, collection, or assessment of any sales tax.
13. A holder of a distributor, wholesaler, or jobber's permit shall be required to operate out of a permanent structure in compliance with all applicable building and fire regulations in the city or county in which said person is operating a fireworks business. Seasonal retail permit locations shall be in compliance with all applicable building and fire regulations. The applicant may be subject to a fire safety inspection by the state fire marshal based upon promulgated rules and regulations adopted by the state fire marshal.
14. It is unlawful for any manufacturer, distributor, wholesaler, or jobber to sell consumer fireworks to a seasonal retailer who has not acquired an appropriate permit from the state fire marshal for the current permit period. A seasonal retailer shall acquire and present the appropriate permit from the state fire marshal before any manufacturer, distributor, wholesaler or jobber is allowed to sell consumer fireworks to such seasonal retailer, provided that such seasonal retailer is purchasing the consumer fireworks for resale in this state.
15. The state fire marshal and the marshal's deputies may conduct inspections of any premises and all portions of buildings where fireworks are stored, manufactured, kept or being offered for sale. All persons selling, offering for sale, barter, gift, exchange, or offer thereof any fireworks shall cooperate fully with the state fire marshal and the marshal's deputies during any such inspection. This inspection shall be performed during normal business hours.
16. In addition to any other penalty, any person who manufactures, sells, offers for sale, ships or causes to be shipped into or caused to be shipped into the state of Missouri, for use in Missouri, any items of fireworks without first having the required applicable permit shall be assessed a civil penalty of up to a one thousand dollar fine for each day of operation up to a maximum of ten thousand dollars.

320.116.

Revocation and refusal of permits, when--illegal fireworks seized as contraband, return of, procedure, costs--review of action by state fire marshal, how.

1. The state fire marshal may revoke any permit issued pursuant to sections 320.106 to 320.161 upon evidence that the holder has violated any of the provisions of sections 320.106 to 320.161.
2. The state fire marshal, in his or her discretion, may refuse to issue a permit, for a period not to exceed three years, to a person whose permit has been revoked for the possession or sale of illegal fireworks, as referred to in section 320.136.
3. The state fire marshal, the marshal's deputies, the marshal's designees or any authorized police or peace officer shall seize as contraband any illegal fireworks as defined pursuant to sections 320.106 to 320.161. Such illegal fireworks seized in the enforcement of sections 320.106 to 320.161 shall be held in custody of the state fire marshal in proper storage facilities. The person surrendering the fireworks may bring an in rem proceeding in the circuit court of the county where the fireworks were seized. Upon hearing, the circuit court may authorize the return of all or part of the confiscated fireworks or the court may authorize and direct that such contraband fireworks be destroyed. If a proceeding is not brought within thirty days, the fireworks shall be destroyed by the state fire marshal. The state fire marshal shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored or held in violation of the provisions of sections 320.106

to 320.161. All costs, including any expenses incurred with the seizure, shall be the responsibility of the adjudicated party if case disposition is in the favor of the state fire marshal.

4. Any person aggrieved by any official action of the state fire marshal affecting their permit status including revocation, suspension, failure to renew a permit, or refusal to grant a permit may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section 621.045, RSMo.

320.121.

Powers of cities and certain counties to regulate or prohibit fireworks.

1. The provisions of sections 320.106 to 320.161 shall not be construed to abrogate or in any way affect the powers of the following political subdivisions to regulate or prohibit fireworks within its corporate limits:
 - (1) Any city, town, or village in this state; or
 - (2) Any county operating under a charter form of government.
2. It is unlawful for any manufacturer, distributor, wholesaler, jobber or seasonal retailer to sell or ship by common carrier fireworks to consumers within the corporate limits of the following political subdivisions which prohibit the sale or possession of fireworks:
 - (1) Any city, town, or village in this state; or
 - (2) Any county operating under a charter form of government.

320.122.

Supremacy clause--regulation of fireworks (St. Louis County).

Where regulations or prohibitions of the sale of fireworks are adopted by any first class county operating under a charter form of government and which contains a population in excess of nine hundred thousand inhabitants, such regulations or prohibitions shall supersede, as to those matters to which this section relates, all municipal ordinances, rules and regulations within the boundaries of such first class chartered county, but only to the extent such regulations or prohibitions are more restrictive than those adopted by a municipality located within such county.

320.126.

Special fireworks--possession and sale of limited, how, to whom--displays, financial responsibility, proof of--inspection of certain venues.

1. Any person, entity, partnership, corporation, or association transporting display or proximate fireworks or display and proximate fireworks into the state of Missouri for the purpose of resale or to conduct a display shall be permitted by the state fire marshal as a distributor or manufacturer and have obtained applicable federal license or permit.
2. Sale of display or proximate fireworks shall be limited to a holder of a federal license or permit and a distributor or manufacturer permit issued by the state fire marshal.
3. Possession of display or proximate fireworks for resale to holders of a permit for display or proximate fireworks shall be confined to holders of a state manufacturer or distributor permit and applicable federal license or permit.
4. Permits for display or proximate fireworks may be granted to municipalities, fair associations, amusement parks, organizations, persons, firms or corporations. Such permits may be granted upon application and approval by the state fire marshal or local fire service authorities of the community where the display is proposed to be held. All applications submitted for display or proximate fireworks permits must be submitted to the office of the state fire marshal a minimum of ten working days prior to the date of the event. The application shall be made on a form provided or approved by the state fire marshal. Every such display shall be supervised, managed, or directed by a Missouri licensed operator, or pyrotechnic operator on site pursuant to subdivisions* (11) and (18) of section

320.106 and shall be located, discharged, or fired so as in the opinion of the permitting authority, after proper inspection based on the most current edition of the National Fire Protection Association standards, NFPA 1123, 1124, and 1126, to not be hazardous to any person or property. After a permit has been granted, the sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. A copy of all permits issued for display or proximate fireworks shall be forwarded by the permit holder to the state fire marshal's office. No permit granted hereunder shall be transferable and shall apply to only one location. No holder of a manufacturer or distributor permit shall sell, barter, or transfer display or proximate fireworks to anyone not possessing an applicable permit or license.

5. Possession of display or proximate fireworks shall be limited to a holder of a display or proximate fireworks permit issued by the authority having jurisdiction where the display or proximate fireworks is proposed to be held or the state fire marshal or holder of a state manufacturer or distributor permit and applicable federal license or permit.
6. Before issuing any permit for a display or proximate fireworks, the municipality, fair association, amusement park, organization, firm, persons, or corporation making application therefor shall furnish proof of financial responsibility in an amount established by promulgated rule to the permitting authority in order to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person, firm or corporation or any agent or employee thereof.
7. Any establishment where proximate fireworks are to be discharged shall be inspected by the state fire marshal or local fire department having jurisdiction for compliance with NFPA 101 Life Safety Code or equivalent nationally recognized code in relation to means of egress, occupancy load, and automatic sprinkler and fire alarm systems. All permits issued will be forwarded to the state fire marshal by the permit holder. Permits will be issued in the same manner as those required in this section.

320.131.

Possession, sale and use of certain fireworks prohibited--restrictions --label required--items not regulated.

1. It is unlawful for any person to possess, sell or use within the state of Missouri, or ship into the state of Missouri, except as provided in section 320.126, any pyrotechnics commonly known as "fireworks" and defined as consumer fireworks in subdivision (3) of section 320.106 other than items now or hereafter classified as fireworks UN0336, 1.4G by the United States Department of Transportation that comply with the construction, chemical composition, labeling and other regulations relative to consumer fireworks regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public pursuant to such commission's regulations.
2. No wholesaler, jobber, or seasonal retailer, or any other person shall sell, offer for sale, store, display, or have in their possession any consumer fireworks that have not been approved as fireworks UN0336, 1.4G by the United States Department of Transportation.
3. No jobber, wholesaler, manufacturer, or distributor shall sell to seasonal retailer dealers, or any other person, in this state for the purpose of resale, or use, in this state, any consumer fireworks which do not have the numbers and letter "1.4G" printed within an orange, diamond-shaped label printed on or attached to the fireworks shipping carton.
4. This section does not prohibit a manufacturer, distributor or any other person possessing the proper permits as specified by state and federal law from storing, selling, shipping or otherwise transporting display or proximate fireworks.

5. Matches, toy pistols, toy canes, toy guns, party poppers, or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound, provided that they are so constructed that the hand cannot come into contact with the cap when in place for use, and toy pistol paper caps which contain less than twenty-five hundredths grains of explosive mixture shall be permitted for sale and use at all times and shall not be regulated by the provisions of sections 320.106 to 320.161.

320.136.

Ground salutes, special type, prohibited.

Ground salutes commonly known as "cherry bombs", "M-80's", "M-100's", "M-1000's", and any other tubular salutes or any items described as prohibited chemical components or forbidden devices as listed in the American Pyrotechnics Association Standard 87-1 or which exceed the limits set for consumers fireworks, display fireworks, or proximate fireworks for explosive composition are expressly prohibited from shipment into, manufacture, possession, sale, or use within the state of Missouri for consumer use. Possession, sale, manufacture, or transport of this type of illegal explosive shall be punished as provided by the provisions of section 571.020, RSMo.

320.141.

Permissible items of consumer fireworks, how sold, when.

Permissible items of consumer fireworks defined in section 320.131 may be sold at wholesale or retail by holders of a jobber's permit to nonlicensed buyers from outside the state of Missouri during a calendar year from the first day of January until the thirty-first day of December. Permissible items of consumer fireworks defined in section 320.131 may be sold at retail by holders of a seasonal retail permit during the selling periods of the twentieth day of June through the tenth day of July and the twentieth day of December through the second day of January.

320.146.

Display and storage of fireworks, restrictions on.

1. It shall be unlawful to expose fireworks to direct sunlight through glass to the merchandise displayed, except where the fireworks are in the original package. All fireworks which the public may examine shall be kept for sale in original packages, except where an attendant is on duty at all times where fireworks are offered for sale. Fireworks shall be kept in showcases out of the reach of the public when an attendant is not on duty. One or more signs reading, "FIREWORKS--NO SMOKING" shall be displayed at all places where fireworks are stored or sold in letters not less than four inches in height.
2. Fireworks shall not be manufactured, stored, kept or sold within fifty feet of any motor vehicle fuel dispensing station dispenser, retail propane dispensing station dispenser, compressed natural gas dispensing station dispenser, gasoline or propane bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon. The provisions of this subsection shall not apply to stores where cleaners, paints, and oils are sold in the original containers to consumers.
3. It shall be unlawful to permit the presence of lighted cigars, cigarettes, pipes, or any other open flame within twenty-five feet of where fireworks are manufactured, stored, kept, or offered for sale.

320.151.

Sales to children, sales by children, unlawful, exceptions--exploding fireworks near gasoline pumps, certain buildings or from or at motor vehicles, prohibited--certain restrictions--demonstrating and testing allowed, requirements.

1. It is unlawful to attempt to sell or to sell at retail any fireworks to children under the age of fourteen years except when such child is in the presence of a parent or guardian.
2. It is unlawful for any person under the age of sixteen to sell fireworks or work in a facility where fireworks are stored, sold, or offered for sale unless supervised by an adult.

3. It is unlawful to explode or ignite consumer fireworks within six hundred feet of any church, hospital, mental health facility, school, or within one hundred feet of any location where fireworks are stored, sold, or offered for sale.
4. No person shall ignite or discharge any permissible articles of consumer fireworks within or throw the same from a motorized vehicle including watercraft or any other means of transportation, except where display permit has been issued for a floating vessel or floating platform, nor shall any person place or throw any ignited article of fireworks into or at a motorized vehicle including watercraft or any other means of transportation, or at or near any person or group of people.
5. No person shall ignite or discharge consumer fireworks within three hundred feet of any permanent storage of ignitable liquid, gases, gasoline pump, gasoline filling station, or any nonpermanent structure where fireworks are stored, sold or offered for sale.
6. No items of explosive or pyrotechnic composition other than fireworks as defined by subdivisions* (3), (5), and (17) of section 320.106 shall be displayed, sold, or offered for sale within the applicable permit location as identified on such permit granted by the state fire marshal.
7. Proximate fireworks shall not be allowed to be stored with consumer fireworks.
8. All storage and transportation of fireworks shall be in accordance with all federal and state rules and regulations.
9. Nothing in sections 320.106 to 320.161 shall be construed to prevent permittees from demonstrating or testing fireworks. Any such demonstration or test shall require the notification and approval of the local fire service or the state fire marshal.

320.156.

Items and activities not subject to provisions of sections 320.106 to 320.161.

Nothing in sections 320.106 to 320.161 shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, or of this state or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to the transportation, sale or use of fireworks solely for agricultural purposes, provided* the items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the state of Missouri.

320.161.

Penalty provisions.

Any person violating any provision of sections 320.106 to 320.161 is guilty of a class A misdemeanor, except that a person violating section 320.136 is guilty of a class C felony.

Division of Fire Safety Fireworks Regulations

It must be noted that state statutory language takes precedent over the requirements in promulgated rules. These rules contain language that reflects statutory changes which have occurred since the adoption of these promulgated rules.

11 CSR 40-3.010 Fireworks Licensing, Permits, Sales, Inspection, and Penalties

PURPOSE: This rule explains the licensing/permit process for the sales, discharge, possession and inspections associated with consumer, display and proximate fireworks.

- (1) The following definitions shall be used in interpreting this rule:
- (A) *American Pyrotechnics Association (APA), Standard 87-1* (2004), PO Box 30438 Bethesda, MD 20824-0348; as incorporated by reference is a standard for manufacturers, importers and distributors of fireworks to assist them in accordance with applicable federal laws;
 - (B) Chemical composition, all pyrotechnic and explosive composition contained in fireworks devices as defined in *American Pyrotechnics Association (APA), Standard 87-1*;
 - (C) Consumer fireworks, explosive devices designed primarily to produce visible or audible effects by combustion and includes aerial devices and ground devices, all of which are classified as fireworks, UN0336, within 49 CFR Part 172;
 - (D) Discharge site, the area immediately surrounding the fireworks mortars used for an outdoor fireworks display;
 - (E) Display site, the immediate area where a fireworks display is conducted, including the discharge site, the fallout area, and the required separation distance from mortars to spectator viewing areas, but not spectator viewing areas or vehicle parking areas;
 - (F) Display fireworks, explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two (2) grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, UN0333 or UN0334 or UN0335, within 49 CFR Part 172;
 - (G) Distributor, any person engaged in the business of selling fireworks to wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary permits as specified in sections 320.106 to 320.161, RSMo including any person that imports any fireworks of any kind in any manner into the state of Missouri;
 - (H) Fireworks, any composition or device for producing a visible, audible, or both visible and audible effect by combustion, deflagration, or detonation and that meets the definition of consumer, proximate, or display fireworks as set forth by 49 CFR part 171 to end, United States Department of Transportation hazardous materials regulations;
 - (I) Fireworks season, the period beginning on the twentieth day of June and continuing through the tenth day of July of the same year and the period beginning on the twentieth day of December and continuing through the second day of January of the next year, which shall be the only periods of time that seasonal retailers may be permitted to sell consumer fireworks;
 - (J) Illegal fireworks include fireworks whose explosive composition exceeds the limits for consumer fireworks, display fireworks or proximate fireworks, including ground salutes commonly known as cherry bombs, M-80's, M-100's, M-1000's or other fireworks designated with an 'M' prefix whose explosive composition exceeds the limits for consumer fireworks, display fireworks, or proximate fireworks;
 - (K) Jobber, any person engaged in the business of making sales of consumer fireworks at wholesale or retail, within the state of Missouri to nonlicensed buyers for use and distribution outside the state of Missouri during a calendar year from the first day of January through the thirty-first day of December;
 - (L) Licensed operator, any person who supervises, manages, or directs the discharge of outdoor display fireworks, either by manual or electrical means; who has met additional requirements established by promulgated rule and has successfully completed a display fireworks training course recognized and approved by the state fire marshal;
 - (M) Manufacturer, any person engaged in the making, manufacture, assembly or construction of fireworks of any kind within the state of Missouri;
 - (N) NFPA, National Fire Protection Association, Standards 101 (2003 edition) as used in setting standards for proximate fireworks; 1123 (2000 edition); 1124 (2003 edition) as used in setting standards for display and proximate fireworks; and 1126 (2001 edition);
 - (O) Permanent structure, buildings and structures with permanent foundations other than tents, stands, mobile homes, and trailers;
 - (P) Permit, the written authority of the state fire marshal issued pursuant to sections 320.106 to 320.161, RSMo, to sell, possess, manufacture, discharge, or distribute fireworks;
 - (Q) Person, any corporation, association, partnership or individual or group thereof;
 - (R) Proximate fireworks, a chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation, as classified within 49 CFR Part 172 as UN0431 or UN0432;
 - (S) Pyrotechnic operator or special effects operator, an individual who has responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special effects for proximate fireworks and who has met additional requirements

established by promulgated rules and has successfully completed a proximate fireworks training course recognized and approved by the state fire marshal;

- (T) Sale, an exchange of articles of fireworks for money, including barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as a principal proprietor, salesman, agent, association, copartnership or one or more individuals;
- (U) Seasonal retailer, any person within the state of Missouri engaged in the business of making sales of consumer fireworks in Missouri only during a fireworks season as defined by subsection (I) of this section;
- (V) Wholesaler, any person engaged in the business of making sales of consumer fireworks to any other person engaged in the business of making sales of consumer fireworks at retail within the state of Missouri.

General Requirements: Licenses, Permits and Fees.

- (A) Each firm or person engaged in the manufacture, transportation, wholesale or retail sales of consumer fireworks, public displays utilizing display fireworks, proximate and consumer fireworks, proximate fireworks 1.4S theatrical, pyrotechnic special effects operators, licensed display fireworks operator shall have an applicable license or permit issued by the state fire marshal.
 - 1. License by type:
 - A. Licensed operator, a fee of one hundred dollars (\$100) for three (3)-year license; and
 - B. Pyrotechnic or special effects operator, a fee of one hundred dollars (\$100) for three (3)-year license.
 - 2. Permits by type:
 - A. Manufacturer, fee of seven hundred seventy-five dollars (\$775) per calendar year per location;
 - B. Distributor, fee of seven hundred seventy-five dollars (\$775) per calendar year per location;
 - C. Wholesaler, fee of two hundred seventy-five dollars (\$275) per calendar year per location;
 - D. Jobber, a fee of five hundred twenty-five dollars (\$525) per calendar year per location;
 - E. Seasonal retailer, a fee of fifty dollars (\$50) per calendar year per sales location;
 - F. Display fireworks, a fee of one hundred dollars (\$100) per calendar year per location;
 - G. Proximate fireworks display, a fee of one hundred dollars (\$100) per calendar year per location.
- (B) All fees shall be paid by cash, money order, or check payable to the Missouri Division of Fire Safety and are nonrefundable or nontransferable except for overpayments resulting from mistakes of law or fact.
- (C) All permits except for seasonal retailer shall be for the calendar year or any fraction thereof and shall expire on the thirty-first day of December each year.
- (D) Seasonal retail permit(s) shall be valid from the twentieth day of June through the tenth day of July of the same year and the period beginning on the twentieth day of December through the second day of January of the next year.
- (E) No seasonal retail, wholesaler or jobber permit shall be issued to a person under the age of eighteen (18) years.
- (F) No manufacturer or distributor permit shall be issued to a person under the age of twenty-one (21) years.
- (G) No permit or license shall be transferable nor shall a person operate under a permit or license issued to another person or location.
- (H) All original permits issued shall be made available for review at the location for which it was issued.
- (I) Manufacturer, wholesaler, jobber and distributor permit holders operating out of multiple locations shall obtain a permit for each location.
- (J) Upon determining that an applicant has furnished or supplied false information in applying for a license or permit or attempting to renew a license or permit, or has failed to notify the state fire marshal of any change in the information supplied in an application, the state fire marshal may refuse to license or permit the applicant or may revoke or suspend any license or permit issued to the applicant for a period of not more than three (3) years.
- (K) The state fire marshal may refuse to issue a license or permit to any applicant when the permit or license of the individual, corporation or partner is under suspension or revocation. The state fire marshal may also refuse to issue a license or permit to a person who is a partner, shareholder, manager, officer, spouse or relative of the applicant or a party to the applicant or is in a position to obtain any financial gain should the application be granted during the period of suspension or revocation.
- (L) The state fire marshal may refuse to issue a license or permit for a period not to exceed three (3) years to an applicant whose license or permit has been revoked for the possession or sale of illegal fireworks as referred to in section 320.136, RSMo.
- (M) In addition to any other penalty, any person who manufactures, sells, offers for sale, ships or causes to be shipped into or caused to be shipped into Missouri for use in Missouri any items of fireworks without first having obtained the applicable permit or license shall be assessed a civil penalty of up to a one thousand dollar (\$1,000) fine for each day of operation up to a maximum of ten thousand dollars (\$10,000).

- (N) Any person aggrieved by any official action of the state fire marshal affecting their license or permit status including revocation, suspension, failure to renew or refusal to issue a license or permit may seek a determination by the Administrative Hearing Commission pursuant to the provisions of section 621.045, RSMo.

(3) Applications for Permit: Manufacturer, Distributor, Wholesaler, Jobber, Seasonal Retail.

- (A) Applications for a permit shall be on forms provided by the state fire marshal and shall be accompanied by the appropriate fee and documentation as required.
1. Copy of Missouri retail sales tax license.
 2. Copy of current certificate of No Tax Due for the preceding year obtained from Missouri Department of Revenue, except if the applicant is pursuing any proper remedy at law challenging the amount, collection, or assessment of any sales tax.
 3. If applicable, copy of .Certificate of Good Standing from Missouri Secretary of State.
 4. If applicable, copy of federal license or permit.
- (B) Failure to make application for seasonal retail permit by May thirty-first of the calendar year may result in the fire marshal's refusal to issue a permit to the applicant for such calendar year.
- (C) Every application for a permit to sell fireworks shall be signed by the permittee or a responsible agent for the permittee who, by signing the application, acknowledges that the permittee will take reasonable steps to see that all employees, agents and officers of the permittee will be familiar with all rules applicable to fireworks operations and will abide by those rules.

(4) Requirements: Manufacturer, Distributor, Jobber or Wholesaler.

- (A) A holder of a manufacturer's permit shall not be required to have any additional permits in order to sell to distributors, wholesalers, jobbers or seasonal retailers, or to sell display or proximate fireworks.
- (B) A holder of a distributors permit shall not be required to have any additional permit in order to sell consumer fireworks to wholesalers, jobbers, seasonal retailers, consumers during the fireworks season or to sell display or proximate fireworks.
- (C) A holder of a jobbers permit shall not be required to have any additional permit in order to sell consumer fireworks at retail during the fireworks season from such jobbers permanent structure.
- (D) Any wholesale transaction by a manufacturer, distributor, wholesaler or jobber to any seasonal retailer doing business in Missouri shall be permitted only if the purchaser has been issued a seasonal retail permit from the state fire marshal as a seasonal retailer.
- (E) Any sales by jobbers to non-permitted persons or entities during any period of time other than the fireworks season as defined in section 320.106(3), RSMo, shall be to nonresidents of Missouri, or to residents of Missouri only after a reasonable inquiry and a waiver signed by the buyer on a form provided by the state fire marshal indicating that the fireworks are for use outside of Missouri if the sale is a retail transaction.
- (F) A holder of a manufacturer, distributor, wholesaler or jobbers permit shall be required to operate out of a permanent structure in compliance with applicable building and fire regulations in the city or county where located.
- (G) Any person engaged in more than one (1) permit classification shall pay one (1) permit fee based upon the permit classification yielding the highest amount of revenue.
- (H) Any person, entity, partnership, corporation, or association transporting display or proximate fireworks into Missouri for the purpose of resale, or to conduct a display fireworks display, or to conduct a proximate fireworks display shall be permitted by the state fire marshal as a distributor or manufacturer and have obtained applicable federal license or permit.
- (I) Sale of display or proximate fireworks shall be limited to a holder of a federal license or permit and a distributor or manufacturer permit issued by the state fire marshal.
- (J) No holder of a manufacturer or distributor permit shall sell, barter, or transfer display or proximate fireworks to anyone not possessing an applicable permit or license.
- (K) No wholesaler or jobber, or any other person shall sell, offer for sale, store, display, or have in their possession any consumer fireworks that have not been approved as fireworks UN0336, or 1.4G by the United States Department of Transportation.
- (L) Possession of display or proximate fireworks for resale to holders of a permit for display or proximate fireworks shall be confined to a holder of a manufacturer or distributor permit and applicable federal license or permit.

- (M) No jobber, wholesaler, manufacturer, or distributor shall sell to seasonal retail dealers, or any other person in this state for the purpose of resale, or use in this state, any consumer fireworks which do not have the numbers and letter .1.4G. printed with an orange diamond shaped label printed on or attached to the fireworks shipping carton.
- (N) Possession of display or proximate fireworks shall be limited to:
 1. A holder of a display or proximate fireworks permit issued by the authority having jurisdiction where the display or proximate fireworks display is proposed to be held; or
 2. A holder of a display or proximate fireworks permit issued by the state fire marshal; or
 3. A holder of a state manufacturer or distributor permit and applicable federal license or permit.

(5) Requirements: Seasonal Retail Sales.

- (A) A seasonal retail permit shall be required for each retail sales location.
- (B) Consumer fireworks UN0336, 1.4G shall be sold to the general public only from permitted seasonal retail sites and only during the fireworks season as defined in section (1) of this rule.
- (C) It is unlawful to attempt to sell or to sell any fireworks to children under the age of fourteen (14) years except when such child is in the presence of a parent or guardian.
- (D) It is unlawful for any person under the age of sixteen (16) to sell fireworks or work in a facility where fireworks are stored, sold, or offered for sale unless under the supervision of an individual at least eighteen (18) years of age.
- (E) Seasonal retail permit locations shall be in compliance with all applicable building and fire regulations and may be subject to a fire safety inspection by the state fire marshal per section (7) of this rule.
- (F) A seasonal retailer shall acquire and present the appropriate permit from the state fire marshal before any manufacturer, distributor, wholesaler or jobber is allowed to sell consumer fireworks to such seasonal retailer provided that such retailer is purchasing the consumer fireworks for resale in this state.

(6) General Requirements: Fireworks Safety/Authority to Inspect.

- (A) Fireworks shall not be stored, kept, or sold within fifty feet (50') of any gasoline pump, gasoline filling station, gasoline bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one (1) gallon.
- (B) Fireworks shall not be manufactured, stored, kept or sold **fifty feet (50')** of any dispensing unit for ignitable liquids or gases.
- (C) It is unlawful to explode or ignite consumer fireworks within six hundred feet (600') of any church, hospital, mental health facility, or school or within one hundred feet (100') of any location where fireworks are stored, sold or offered for sale.
- (D) No person shall ignite or discharge fireworks within three hundred feet (300') of any permanent storage of ignitable liquid, gases, gasoline pump, and gasoline filling station.
- (E) No person shall ignite or discharge any fireworks within or throw the same from or into a motorized vehicle including watercraft or any other means of transportation or at or near any person or group of people, except where display permit has been issued for a floating vessel or floating platform.
- (F) All person(s) selling or offering fireworks for sale or barter or trade will permit the state fire marshal and the marshal's deputies to conduct inspections, based on Code of State Regulations, of the business premises or any location where fireworks are stored or kept and will cooperate with any inspection or investigation. Failure to cooperate or refusal to allow an inspection shall result in suspension or revocation of the permittee's permit(s) or refusal of a permit to be issued. This inspection shall be performed during normal business hours.

(7) Requirements: Fire Safety Inspection

Retail Sales.

(A) Portable Fire Extinguishers.

1. Every seasonal retail sales location shall have not less than two (2) portable fire extinguishers with a minimum 2A rating, at least one (1) of which shall be a pressurized water type.
2. Temporary seasonal retail sales locations less than two hundred (200) square feet in area shall be required to have at least one (1) portable fire extinguisher with a minimum 2A rating.
3. The maximum travel distance to a fire extinguisher in any seasonal retail sales location shall be no greater than thirty-five feet (35').

4. All fire extinguishers shall be inspected annually by a fire extinguisher company and have documentation to this effect attached to them.
5. All fire extinguishers shall be located in an accessible location to the staff.
6. Employees shall be trained to operate fire-extinguishing equipment and shall be required to exhibit their skill when requested by the authority having jurisdiction.

(B) Site Requirements.

1. The authority having jurisdiction shall require a certificate or other evidence of acceptance by an organization or laboratory of recognized standing or manufacturer verifying that the tent fabric material has been treated with a flame resistant material.
2. No hay, straw, shavings, or similar combustible materials that have not been treated to make them flame retardant shall be permitted within any seasonal retail sales location.
3. The area located within thirty feet (30') of a retail sales location shall be kept free of accumulated dry grass, dry brush, and combustible debris.
4. Fireworks shall not be displayed or stored behind glass through which direct sunlight will shine on the fireworks except for where the fireworks are in their original package.
5. Fireworks shall be kept in a location out of the reach of the public when an attendant is not on duty.
6. Seasonal retail sales locations shall be secured when unoccupied and not open for business.

(C) Fireworks Discharge.

1. Fireworks shall not be ignited, discharged, or otherwise used within one hundred feet (100') of any location where fireworks are stored, sold, or offered for sale.
2. At least one (1) sign that reads as follows, in letters at least four inches (4") high on a contrasting background, shall be conspicuously posted at each entrance of seasonal retail sales locations: NO FIREWORKS DISCHARGE WITHIN 100 FEET

(D) No Smoking Signs.

1. Smoking shall not be permitted inside or within twenty-five feet (25') of the seasonal retail sales area.
2. One (1) or more signs reading, FIREWORKS NO SMOKING shall be displayed at each entrance of seasonal retail sales locations in letters not less than four inches (4") in height on a contrasting background.

(E) Separation Distances.

1. No motor vehicle shall be parked within ten feet (10') of a seasonal retail sales location.
2. No trailer used for the storage of consumer fireworks shall be parked within ten feet (10') of a seasonal retail sales location.
3. Temporary seasonal retail sales stands and tent side walls shall not be located within twenty feet (20') of the following, unless authorized by the authority having jurisdiction:
 - A. Another building;
 - B. Another seasonal retail sales location;
 - C. Cooking equipment of any type.
4. Seasonal retail sales locations shall not be located within fifty feet (50') of the following:
 - A. Any gasoline pump, gasoline filling station, gasoline bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one (1) gallon;
 - B. Compressed natural gas dispensing facilities;
 - C. Retail propane dispensing station;
 - D. Aboveground storage tanks for flammable or combustible liquid, flammable gas or flammable liquefied gas;
 - E. Any type of open flame cooking equipment.
5. Portable generators shall be located not less than twenty feet (20') from a seasonal retail sales location.

(F) Means of Egress.

1. All means of egress from any temporary seasonal retail sales tent or stand shall remain clear and free of obstructions.
2. A minimum of two (2) remote means of egress shall be located in a seasonal retail sales location.
3. Exits provided for temporary seasonal retail sales stands shall be arranged so that the maximum egress travel distance does not exceed thirty-five feet (35').
4. Exits provided for seasonal retail tents shall be arranged so that the maximum egress travel distance measured from the most remote point to an exit along the natural and unobstructed path of egress travel does not exceed seventy-five feet (75').
5. Aisles within a temporary seasonal retail sales tent, where the interior is accessible to the public, the minimum clear width shall be permitted to be not less than forty eight inches (48").
6. Aisles within a temporary seasonal retail sales stand, where the interior is not accessible to the public, the minimum clear width shall be permitted to be not less than twenty-eight inches (28").
7. The required width of aisles shall be maintained unobstructed at all times the facility is occupied by the public.
8. Dead end aisles shall be prohibited.
9. Exit openings from seasonal retail sales tents shall be not less than forty-four inches (44") in width.
10. Egress doors in temporary seasonal retail sales stands where the interior is not accessible to the public shall be permitted to be not less than twenty-eight inches (28") in width.
11. Egress doors in temporary seasonal retail sales stands where the interior is accessible to the public shall be permitted to be not less than thirty-six inches (36") in width.

12. No fireworks shall be displayed for sale or stored within two feet (2') of any public exit, or private entrance or exit in an enclosed building.

(G) Exit Signs and Emergency Lighting.

1. Exit signs shall be required to be self luminous or internally or externally illuminated.
2. Exit signs shall not be required to be illuminated in tents or stands that are not open for business after dusk or in temporary seasonal retail sales stands where the interior is not accessible to the public.
3. Emergency lighting shall not be required in tents or stands that are not open for business after dusk or for temporary seasonal retail sales stands where the interior is not accessible to the public.
4. Emergency lighting shall be required in seasonal retail sales locations when the retail sales area is eight hundred (800) square feet or greater.

(H) Electrical Equipment.

1. The electrical system and equipment shall be isolated from the public by proper elevation or guarding, and all electrical fuses and switches shall be enclosed in approved enclosures.
2. Electrical cables, including extension cords on the ground in areas traversed by the public shall be placed in trenches or protected by approved covers.
3. All extension cords shall be a minimum fourteen (14) gauge and multi-outlet power strips shall be UL approved and of the grounding type.
4. All multi-outlet power strips shall be UL approved and of the type with a circuit breaker for overload protection.
5. All electrical wiring, equipment, and devices shall be UL approved, installed and maintained to prevent electrical hazards.
6. All electrical lighting shall be UL approved, mounted and installed in a safe manner.
7. Branch circuits for receptacles, lighting and other uses shall be protected by ground fault circuit interrupters if susceptible to water exposure.
8. The power distribution panel shall be properly grounded with a minimum #6 solid copper wire connected to a copper clad ground rod. The ground wire must be connected to the ground rod using a UL approved ground rod clamp with the clamp being visible.

(I) Prohibited Activity/Items.

1. The retail sales of pest control devices, including their related storage and display shall be prohibited.
2. No electronic pest control device(s) shall be located inside a seasonal retail sales location.
3. The consumption or possession of alcoholic beverages in any seasonal retail sales location is prohibited during business hours.
4. Any person selling fireworks shall not knowingly sell consumer fireworks to any person who is obviously under the influence of alcohol or drugs.
5. Proximate and display fireworks shall not be allowed to be sold with consumer fireworks.

(8) Permit Requirements: Discharging Display or Proximate Fireworks.

Permit(s) for display or proximate fireworks may be granted to municipalities, fair associations, amusement parks, organizations, persons, firms or corporations. Such permits may be granted upon application and approval by the state fire marshal or local authority having jurisdiction where the display is proposed to be held.

1. Application for a permit to conduct a display/proximate fireworks show issued by the state fire marshal shall meet the following requirements and be on a form provided by the state fire marshal:
 - A. Applicant shall be at least twenty-one (21) years of age;
 - B. The permit shall be issued per location per calendar year, except
 - (I) Any change from the original site plan relating to distances, mortar size, mortar installation, firing method, etc. shall require a new application and submission of an additional permit fee;
 - C. A fee of one hundred dollars (\$100) shall be paid to the state fire marshal at the time of initial application for permit;
 - D. Identity of state licensed display/pyrotechnic operator shall be provided;
 - E. Applicant shall submit proof of insurance coverage insuring the applicant with liability insurance in order to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person, firm or corporation or any agent or employee thereof with an occurrence limit of not less than one (1) million dollars. Additionally, insurance coverage of an employer for whom the individual is employed shall be considered to comply with the aforementioned, if the coverage provides equivalent coverage for each employee;
 - F. If applicant is conducting a display under the auspices of a municipality or political subdivision the applicant shall be exempt from liability insurance coverage if the municipality or political subdivision possesses liability insurance covering the applicant with an occurrence limit of not less than one (1) million dollars;
 - G. Applicant shall submit a detailed site plan, to include but not be limited to distance requirements per NFPA, firing method, mortar installation and product being used along with the name of the licensed or pyrotechnic operator to the state fire marshal a minimum of ten (10) working days prior to the date of the event;
 - H. Upon request applicant shall provide Material Safety Data Sheets (MSDS) relating to the products being used;
 - I. No permit granted shall be transferable;
 - J. The permit shall apply to only one (1) location.

2. A copy of a display or proximate fireworks permit issued by the local authority having jurisdiction shall be submitted by the permit holder to the state fire marshal within forty-five (45) days of the display or upon request of the state fire marshal.
3. Any venue where proximate fireworks are to be discharged shall be inspected by the state fire marshal or local authority having jurisdiction for compliance with NFPA 1126.
4. Any establishment where proximate fireworks are to be discharged indoors shall be inspected by the state fire marshal or local authority having jurisdiction for compliance with NFPA 1126 and NFPA 101 *Life Safety Code* or equivalent nationally recognized code in relation to means of egress, occupancy load, and automatic sprinkler and fire alarm systems.
5. Provisions shall be made for adequate fire protection at a level determined by the jurisdiction where the display is to be conducted.
6. Safety monitors shall be required per NFPA 1123 and/or NFPA 1126.
7. This subsection shall not preclude a political subdivision, county or city from imposing by ordinance the requirement to notify local authorities of the intent to conduct such display.

(9) Licensed/Pyrotechnic Display Operator.

- (A) Every fireworks display or proximate fireworks display shall be supervised, managed, or directed by a Missouri state licensed operator or pyrotechnic operator on-site.
- (B) Licensed/pyrotechnic display operators shall complete and submit, on a form provided by the state fire marshal a licensed/pyrotechnic display operator application and meet the minimum requirements listed below:
 1. Applicant shall be at least twenty-one (21) years of age;
 2. Applicant shall not have a felony conviction or have pleaded guilty to a felony;
 3. A fee of one hundred dollars (\$100) shall be paid to the state fire marshal at the time of application for licensure;
 4. Applicant shall provide two (2) passport type photographs per license requested;
 5. The state fire marshal will consider the following criteria in determining whether to issue a license to the applicant under the provisions of this rule:
 - A. Documentation that applicant has attended courses relating to pyrotechnics;
 - B. An applicant shall submit evidence of experience, which must include active participation as an assistant or operator in the performance of at least three (3) fireworks displays or proximate fireworks displays, at least one of which must have occurred in the current or preceding year;
 - C. Applicant shall complete a written examination administered by the state fire marshal and achieve a passing score of at least seventy percent (70%).
 - (I) Any person failing to pass the examination may retake the examination after a thirty (30)-day waiting period.
 - (II) Any person failing to pass the examination a second time may retake the examination after a ninety (90)-day waiting period;
 - D. Any licenses or certifications from other jurisdictions or licensing entities approved by the state fire marshal;
 - E. References from local authorities, sponsors, employers, and fireworks/pyrotechnic companies;
 - F. Copy of U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives permit/ license if applicable;
 6. To obtain recertification, the applicant shall be required to meet the following criteria:
 - A. Provide documentation that applicant has attended a minimum of twelve (12) hours of continuing education relating to pyrotechnics within the past three (3) years.
 - B. Provide documentation of actively participating in at least three (3) fireworks displays or proximate fireworks displays.
 - C. A fee of one hundred dollars (\$100) shall be paid at the time of recertification to the state fire marshal;
 7. The licensee shall carry his/her license at all times when engaging in pyrotechnic display activity;
 8. Each license issued pursuant to this section shall specify the licensee's name, state issued license number, the license's effective date and expiration date and photograph;
 9. In any case where the state fire marshal denies, suspends or revokes a license, a written notice of the basis for the denial, suspension or revocation shall be provided to the applicant or license holder;
 10. Upon notice of revocation or suspension, the license holder shall surrender the license and all copies thereof to the state fire marshal immediately. No person shall supervise a fireworks display or proximate display once their license has been revoked or suspended;
 11. Upon notice of denial, suspension or revocation of a license, the decision may be appealed in writing to the state fire marshal within forty-five (45) days of the denial, suspension or revocation requesting an administrative hearing pursuant to the provisions of section 621.045, RSMo;
 12. The state fire marshal may deny, suspend or revoke licensure of any applicant when it is found that the applicant or licensee:
 - A. Has knowingly made a material misrepresentation of any information required for licensure;
 - B. Has knowingly by any means of false pretense, deception, fraud, misrepresentation or cheating obtained training or licensure;

13. No person shall handle display/proximate fireworks or cause any person to handle or discharge display/proximate fireworks in this state unless such use of display/proximate fireworks are under the direct supervision and responsibility of a state licensed operator or pyrotechnic operator pursuant to this rule. Persons working under the direct supervision of a licensed operator or pyrotechnic operator at the site shall not be in violation of this rule.

(10) Violations.

- (A) A permittee will receive a written warning from the state fire marshal for violation of any of the following:
1. Failing to properly display a No Smoking sign(s);
 2. Failing to properly display a No Smoking sign(s) of sufficient size;
 3. Failing to properly display a permit or license;
 4. Selling or offering for sale fireworks that are not properly labeled;
 5. Exposing fireworks not in the original package to direct sunlight while displayed and unattended, as defined by section 320.146.1, RSMo;
 6. Leaving unattended fireworks accessible to the public;
 7. Attempting to make or making a sale of fireworks out of season as defined in section 320.106(9), RSMo to someone for use or distribution within the state of Missouri;
 8. Knowingly allowing an open flame or smoking within twenty-five feet (25') of a place where fireworks are manufactured, stored, kept, or offered for sale;
 9. Selling to a child under the age of fourteen (14) who is not in the presence of his/her parent or guardian;
 10. Receiving fireworks without a permit if the permittee was permitted but failed to renew;
 11. Selling fireworks without a permit if the permittee was permitted but failed to renew;
 12. Selling from other than a permanent structure, except for retail sales during fireworks seasons;
 13. Storing fireworks too close to volatile liquids or gases, as defined by section 320.146(2), RSMo;
 14. Selling or shipping fireworks to a consumer within a city or county lawfully prohibiting the sale or possession of fireworks pursuant to section 320.121, RSMo;
 15. Employing a person less than sixteen (16) years of age who is unsupervised;
 16. Selling or offering for sale or displaying fireworks to consumers that are marked other than UN0336, 1.4G;
 17. Failure of distributors and manufacturers to retain copies of applicable permit(s) or license(s) issued for display and/or proximate fireworks transactions for one (1) year after the transaction;
 18. Selling fireworks for resale in this state to a distributor, manufacturer, jobber, wholesaler or seasonal retailer who has not first obtained their current permits as required by law.
- (B) Subsequent violation of any of the acts set forth in subsection (10)(A) will result in the suspension or revocation of the permit(s) of the permittee for a period as determined by the state fire marshal.
- (C) Violation of any of the following laws or regulations may result in the suspension or revocation of the permit(s) for a period not to exceed three (3) years and/or the refusal of the fire marshal to renew or issue a permit(s) to the permittee or owner:
1. Selling or improperly possessing fireworks while the permit or license has been suspended or revoked;
 2. Allowing another person or business to use or display the license of a licensee;
 3. Possessing or manufacturing illegal fireworks or selling or offering for sale illegal fireworks as defined in section 320.136, RSMo;
 4. Failing or refusing to allow a reasonable inspection of any premises and all portions of buildings where fireworks are being stored or are being offered for sale. A reasonable request is one made either during daylight hours or while the premises or building are open for business;
 5. Failing to fully cooperate with a reasonable request during an inspection;
 6. Failure to obtain a permit for display or proximate fireworks site;
 7. Performing a display or proximate fireworks display without having obtained a licensed operator or pyrotechnic operator permit from the Missouri State Fire Marshal;
 8. Failure of the applicant to obtain all required permit(s) and/or license(s) required as per 320.111(1), RSMo.
- (D) The state fire marshal will indicate to the permit holder, in writing, the statute(s) and any regulations violated. Appeals from any decision of the state fire marshal will be made to the Administrative Hearing Commission, except in cases in which a charged violation includes a violation of the criminal laws.
- (E) The period of suspension or revocation imposed by the state fire marshal will remain in effect against the permit holder's future business, partnership, corporation or entity even if an attempt to change ownership or control of that permit holder's business, partnership, corporation or entity is made or attempted.
- (F) Persons found guilty of handling or discharging display/proximate fireworks, or directing, ordering or otherwise causing any person to handle or fire display/proximate fireworks in this state without having a valid license shall be guilty of a Class A misdemeanor.

(11) Incident Reporting; Licensed Operator/Pyrotechnic Operator Responsibility.

- (A) It is the responsibility of the licensed operator/pyrotechnic operator to immediately report any discharge related incident identified below to local law enforcement or fire service agencies and request such agency to notify the Office of the State Fire Marshal.
 - 1. Injury to any person requiring immediate medical treatment;
 - 2. A fire or damage to property in an amount reportable to the operator's insurance company;
 - 3. Loss of life.
- (B) After a reportable incident has occurred, the scene shall not be altered or tampered with in any manner unless authorized by the state fire marshal or designee, until an investigation/inspection can be completed.
- (C) Failure of the licensed operator/pyrotechnic operator to report an incident identified in this section may be subject to their license being suspended or revoked by the state fire marshal for a period of time not to exceed three (3) years.

AUTHORITY: section 320.111.9, RSMo Supp. 2004. Original rule filed Sept. 29, 1988, effective Feb. 24, 1989. Amended: Filed May 1, 1989, effective July 13, 1989. Emergency rescission and rule filed Aug. 31, 2004, effective Sept. 10, 2004, expired March 9, 2005. Rescinded and readopted: Filed Aug. 31, 2004, effective March 30, 2005.*



Rules of
Department of Public Safety
Division 40—Division of Fire Safety
Chapter 3—Fireworks

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**Title 11—DEPARTMENT OF
PUBLIC SAFETY****Division 40—Division of
Fire Safety
Chapter 3—Fireworks****11 CSR 40-3.010 Fireworks—Licensing,
Permits, Sales, Inspection, and Penalties**

PURPOSE: This rule explains the licensing/permit process for the sales, discharge, possession and inspections associated with consumer, display and proximate fireworks.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) The following definitions shall be used in interpreting this rule:

(A) *American Pyrotechnics Association (APA), Standard 87-1* (2004), PO Box 30438 Bethesda, MD 20824-0348; as incorporated by reference is a standard for manufacturers, importers and distributors of fireworks to assist them in accordance with applicable federal laws;

(B) Chemical composition, all pyrotechnic and explosive composition contained in fireworks devices as defined in *American Pyrotechnics Association (APA), Standard 87-1*;

(C) Consumer fireworks, explosive devices designed primarily to produce visible or audible effects by combustion and includes aerial devices and ground devices, all of which are classified as fireworks, UN0336, 1.4G by regulation of the United States Department of Transportation, Title 49 CFR (2003), 400 7th Street S.W., Washington, D.C. 20590, as incorporated by reference, and which were formerly classified as class C common fireworks by regulation of the United States Department of Transportation;

(D) Discharge site, the area immediately surrounding the fireworks mortars used for an outdoor fireworks display;

(E) Display site, the immediate area where a fireworks display is conducted, including the discharge site, the fallout area, and the required separation distance from mortars to

spectator viewing areas, but not spectator viewing areas or vehicle parking areas;

(F) Display fireworks, explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two (2) grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, UN0335, 1.3G by regulation of the United States Department of Transportation, as amended from time-to-time, and which were formerly classified as class B display fireworks by regulation of the United States Department of Transportation;

(G) Distributor, any person engaged in the business of selling fireworks to wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary permits as specified in sections 320.106 to 320.161, RSMo including any person that imports any fireworks of any kind in any manner into the state of Missouri;

(H) Fireworks, any composition or device for producing a visible, audible, or both visible and audible effect by combustion, deflagration, or detonation and that meets the definition of consumer, proximate, or display fireworks as set forth by 49 CFR part 171 to end, United States Department of Transportation hazardous materials regulations, and *American Pyrotechnics Association, Standard 87-1*;

(I) Fireworks season, the period beginning on the twentieth day of June and continuing through the tenth day of July of the same year and the period beginning on the twentieth day of December and continuing through the second day of January of the next year, which shall be the only periods of time that seasonal retailers may be permitted to sell consumer fireworks;

(J) Illegal fireworks include fireworks whose explosive composition exceeds the limits for consumer fireworks or display fireworks, UN0336, 1.4G, UN0335, 1.3G and UN0431, 1.4G or UN0432, 1.4S by the United States Department of Transportation, and *American Pyrotechnics Association, Standard 87-1* including ground salutes commonly known as cherry bombs, M-80's, M-100's, M-1000's or other fireworks designated with an "M" prefix whose explosive composition exceeds the limits for consumer fireworks by the United States Department of Transportation;

(K) Jobber, any person engaged in the business of making sales of consumer fireworks at wholesale or retail, within the state of Missouri to nonlicensed buyers for use and distribution outside the state of Missouri during

a calendar year from the first day of January through the thirty-first day of December;

(L) Licensed operator, any person who supervises, manages, or directs the discharge of outdoor display fireworks, either by manual or electrical means; who has met additional requirements established by promulgated rule and has successfully completed a display fireworks training course recognized and approved by the state fire marshal;

(M) Manufacturer, any person engaged in the making, manufacture, assembly or construction of fireworks of any kind within the state of Missouri;

(N) NFPA, National Fire Protection Association, Standards 101 (2003 edition) as used in setting standards for proximate fireworks; 1123 (2000 edition); 1124 (2003 edition) as used in setting standards for display and proximate fireworks; and 1126 (2001 edition), #1 Batterymarch Park, PO Box 9101, Quincy, MA 02269, as incorporated by reference; an international codes and standards organization;

(O) Permanent structure, buildings and structures with permanent foundations other than tents, stands, mobile homes, and trailers;

(P) Permit, the written authority of the state fire marshal issued pursuant to sections 320.106 to 320.161, RSMo, to sell, possess, manufacture, discharge, or distribute fireworks;

(Q) Person, any corporation, association, partnership or individual or group thereof;

(R) Proximate fireworks, a chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation, as defined by the most current edition of the *American Pyrotechnics Association (APA), Standard 87-1*, section 3.8, specific requirements for theatrical pyrotechnics;

(S) Pyrotechnic operator or special effects operator, an individual who has responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special effects for proximate fireworks and who has met additional requirements established by promulgated rules and has successfully completed a proximate fireworks training course recognized and approved by the state fire marshal;

(T) Sale, an exchange of articles of fireworks for money, including barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as a principal proprietor, salesman, agent, association, copartnership or one or more individuals;

(U) Seasonal retailer, any person within the state of Missouri engaged in the business



of making sales of consumer fireworks in Missouri only during a fireworks season as defined by subsection (I) of this section;

(V) Wholesaler, any person engaged in the business of making sales of consumer fireworks to any other person engaged in the business of making sales of consumer fireworks at retail within the state of Missouri.

(2) General Requirements: Licenses, Permits and Fees.

(A) Each firm or person engaged in the manufacture, transportation, wholesale or retail sales of consumer fireworks, public displays utilizing fireworks 1.3G, proximate and consumer fireworks 1.4G, proximate fireworks 1.4S theatrical, pyrotechnic special effects operators, licensed display fireworks operator shall have an applicable license or permit issued by the state fire marshal.

1. License by type:

A. Licensed operator, a fee of one hundred dollars (\$100) for three (3)-year license; and

B. Pyrotechnic or special effects operator, a fee of one hundred dollars (\$100) for three (3)-year license.

2. Permits by type:

A. Manufacturer, fee of seven hundred seventy-five dollars (\$775) per calendar year per location;

B. Distributor, fee of seven hundred seventy-five dollars (\$775) per calendar year per location;

C. Wholesaler, fee of two hundred seventy-five dollars (\$275) per calendar year per location;

D. Jobber, a fee of five hundred twenty-five dollars (\$525) per calendar year per location;

E. Seasonal retailer, a fee of fifty dollars (\$50) per calendar year per sales location;

F. Display fireworks, a fee of one hundred dollars (\$100) per calendar year per location;

G. Proximate fireworks display, a fee of one hundred dollars (\$100) per calendar year per location.

(B) All fees shall be paid by cash, money order, or check payable to the Missouri Division of Fire Safety and are nonrefundable or nontransferable except for overpayments resulting from mistakes of law or fact.

(C) All permits except for seasonal retailer shall be for the calendar year or any fraction thereof and shall expire on the thirty-first day of December each year.

(D) Seasonal retail permit(s) shall be valid from the twentieth day of June through the tenth day of July of the same year and the period beginning on the twentieth day of

December through the second day of January of the next year.

(E) No seasonal retail, wholesaler or jobber permit shall be issued to a person under the age of eighteen (18) years.

(F) No manufacturer or distributor permit shall be issued to a person under the age of twenty-one (21) years.

(G) No permit or license shall be transferable nor shall a person operate under a permit or license issued to another person or location.

(H) All original permits issued shall be made available for review at the location for which it was issued.

(I) Manufacturer, wholesaler, jobber and distributor permit holders operating out of multiple locations shall obtain a permit for each location.

(J) Upon determining that an applicant has furnished or supplied false information in applying for a license or permit or attempting to renew a license or permit, or has failed to notify the state fire marshal of any change in the information supplied in an application, the state fire marshal may refuse to license or permit the applicant or may revoke or suspend any license or permit issued to the applicant for a period of not more than three (3) years.

(K) The state fire marshal may refuse to issue a license or permit to any applicant when the permit or license of the individual, corporation or partner is under suspension or revocation. The state fire marshal may also refuse to issue a license or permit to a person who is a partner, shareholder, manager, officer, spouse or relative of the applicant or a party to the applicant or is in a position to obtain any financial gain should the application be granted during the period of suspension or revocation.

(L) The state fire marshal may refuse to issue a license or permit for a period not to exceed three (3) years to an applicant whose license or permit has been revoked for the possession or sale of illegal fireworks as referred to in section 320.136, RSMo.

(M) In addition to any other penalty, any person who manufactures, sells, offers for sale, ships or causes to be shipped into or caused to be shipped into Missouri for use in Missouri any items of fireworks without first having obtained the applicable permit or license shall be assessed a civil penalty of up to a one thousand dollar (\$1,000) fine for each day of operation up to a maximum of ten thousand dollars (\$10,000).

(N) Any person aggrieved by any official action of the state fire marshal affecting their license or permit status including revocation, suspension, failure to renew or refusal to

issue a license or permit may seek a determination by the Administrative Hearing Commission pursuant to the provisions of section 621.045, RSMo.

(3) Applications for Permit: Manufacturer, Distributor, Wholesaler, Jobber, Seasonal Retail.

(A) Applications for a permit shall be on forms provided by the state fire marshal and shall be accompanied by the appropriate fee and documentation as required.

1. Copy of Missouri retail sales tax license.

2. Copy of current certificate of "No Tax Due" for the preceding year obtained from Missouri Department of Revenue, except if the applicant is pursuing any proper remedy at law challenging the amount, collection, or assessment of any sales tax.

3. If applicable, copy of "Certificate of Good Standing" from Missouri Secretary of State.

4. If applicable, copy of federal license or permit.

(B) Failure to make application for seasonal retail permit by May thirty-first of the calendar year may result in the fire marshal's refusal to issue a permit to the applicant for such calendar year.

(C) Every application for a permit to sell fireworks shall be signed by the permittee or a responsible agent for the permittee who, by signing the application, acknowledges that the permittee will take reasonable steps to see that all employees, agents and officers of the permittee will be familiar with all rules applicable to fireworks operations and will abide by those rules.

(4) Requirements: Manufacturer, Distributor, Jobber or Wholesaler.

(A) A holder of a manufacturer's permit shall not be required to have any additional permits in order to sell to distributors, wholesalers, jobbers or seasonal retailers, or to sell display or proximate fireworks.

(B) A holder of a distributor's permit shall not be required to have any additional permit in order to sell consumer fireworks to wholesalers, jobbers, seasonal retailers, consumers during the fireworks season or to sell display or proximate fireworks.

(C) A holder of a jobber's permit shall not be required to have any additional permit in order to sell consumer fireworks at retail during the fireworks season from such jobber's permanent structure.

(D) Any wholesale transaction by a manufacturer, distributor, wholesaler or jobber to any seasonal retailer doing business in



Missouri shall be permitted only if the purchaser has been issued a seasonal retail permit from the state fire marshal as a seasonal retailer.

(E) Any sales by jobbers to nonpermitted persons or entities during any period of time other than the fireworks season as defined in section 320.106(3), RSMo, shall be to non-residents of Missouri, or to residents of Missouri only after a reasonable inquiry and a waiver signed by the buyer on a form provided by the state fire marshal indicating that the fireworks are for use outside of Missouri if the sale is a retail transaction.

(F) A holder of a manufacturer, distributor, wholesaler or jobber's permit shall be required to operate out of a permanent structure in compliance with applicable building and fire regulations in the city or county where located.

(G) Any person engaged in more than one (1) permit classification shall pay one (1) permit fee based upon the permit classification yielding the highest amount of revenue.

(H) Any person, entity, partnership, corporation, or association transporting display or proximate fireworks into Missouri for the purpose of resale, or to conduct a 1.3G fireworks display, or to conduct a proximate fireworks display shall be permitted by the state fire marshal as a distributor or manufacturer and have obtained applicable federal license or permit.

(I) Sale of display or proximate fireworks shall be limited to a holder of a federal license or permit and a distributor or manufacturer permit issued by the state fire marshal.

(J) No holder of a manufacturer or distributor permit shall sell, barter, or transfer display or proximate fireworks to anyone not possessing an applicable permit or license.

(K) No wholesaler or jobber, or any other person shall sell, offer for sale, store, display, or have in their possession any consumer fireworks that have not been approved as fireworks UN0336, or 1.4G by the United States Department of Transportation.

(L) Possession of display or proximate fireworks for resale to holders of a permit for display or proximate fireworks shall be confined to a holder of a manufacturer or distributor permit and applicable federal license or permit.

(M) No jobber, wholesaler, manufacturer, or distributor shall sell to seasonal retail dealers, or any other person in this state for the purpose of resale, or use in this state, any consumer fireworks which do not have the numbers and letter "1.4G" printed with an orange diamond shaped label printed on or attached to the fireworks shipping carton.

(N) Possession of display or proximate fireworks shall be limited to:

1. A holder of a display or proximate fireworks permit issued by the authority having jurisdiction where the display or proximate fireworks display is proposed to be held; or

2. A holder of a display or proximate fireworks permit issued by the state fire marshal; or

3. A holder of a state manufacturer or distributor permit and applicable federal license or permit.

(5) Requirements: Seasonal Retail Sales.

(A) A seasonal retail permit shall be required for each retail sales location.

(B) Consumer fireworks UN0336, 1.4G shall be sold to the general public only from permitted seasonal retail sites and only during the fireworks season as defined in section (1) of this rule.

(C) It is unlawful to attempt to sell or to sell any fireworks to children under the age of fourteen (14) years except when such child is in the presence of a parent or guardian.

(D) It is unlawful for any person under the age of sixteen (16) to sell fireworks or work in a facility where fireworks are stored, sold, or offered for sale unless under the supervision of an individual at least eighteen (18) years of age.

(E) Seasonal retail permit locations shall be in compliance with all applicable building and fire regulations and may be subject to a fire safety inspection by the state fire marshal per section (7) of this rule.

(F) A seasonal retailer shall acquire and present the appropriate permit from the state fire marshal before any manufacturer, distributor, wholesaler or jobber is allowed to sell consumer fireworks to such seasonal retailer provided that such retailer is purchasing the consumer fireworks for resale in this state.

(6) General Requirements: Fireworks Safety/Authority to Inspect.

(A) Fireworks shall not be stored, kept, or sold within fifty feet (50') of any gasoline pump, gasoline filling station, gasoline bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one (1) gallon.

(B) Fireworks shall not be manufactured, stored, kept or sold within one hundred feet (100') of any dispensing unit for ignitable liquids or gases.

(C) It is unlawful to explode or ignite consumer fireworks within six hundred feet (600') of any church, hospital, mental health facility, or school or within one hundred feet

(100') of any location where fireworks are stored, sold or offered for sale.

(D) No person shall ignite or discharge fireworks within three hundred feet (300') of any permanent storage of ignitable liquid, gases, gasoline pump, and gasoline filling station.

(E) No person shall ignite or discharge any fireworks within or throw the same from or into a motorized vehicle including watercraft or any other means of transportation or at or near any person or group of people, except where display permit has been issued for a floating vessel or floating platform.

(F) All person(s) selling or offering fireworks for sale or barter or trade will permit the state fire marshal and the marshal's deputies to conduct inspections, based on *Code of State Regulations*, of the business premises or any location where fireworks are stored or kept and will cooperate with any inspection or investigation. Failure to cooperate or refusal to allow an inspection shall result in suspension or revocation of the permittee's permit(s) or refusal of a permit to be issued. This inspection shall be performed during normal business hours.

(7) Requirements: Fire Safety Inspection—Retail Sales.

(A) Portable Fire Extinguishers.

1. Every seasonal retail sales location shall have not less than two (2) portable fire extinguishers with a minimum 2A rating, at least one (1) of which shall be a pressurized water type.

2. Temporary seasonal retail sales locations less than two hundred (200) square feet in area shall be required to have at least one (1) portable fire extinguisher with a minimum 2A rating.

3. The maximum travel distance to a fire extinguisher in any seasonal retail sales location shall be no greater than thirty-five feet (35').

4. All fire extinguishers shall be inspected annually by a fire extinguisher company and have documentation to this effect attached to them.

5. All fire extinguishers shall be located in an accessible location to the staff.

6. Employees shall be trained to operate fire-extinguishing equipment and shall be required to exhibit their skill when requested by the authority having jurisdiction.

(B) Site Requirements.

1. The authority having jurisdiction shall require a certificate or other evidence of acceptance by an organization or laboratory of recognized standing or manufacturer verifying that the tent fabric material has been treated with a flame resistant material.



2. No hay, straw, shavings, or similar combustible materials that have not been treated to make them flame retardant shall be permitted within any seasonal retail sales location.

3. The area located within thirty feet (30') of a retail sales location shall be kept free of accumulated dry grass, dry brush, and combustible debris.

4. Fireworks shall not be displayed or stored behind glass through which direct sunlight will shine on the fireworks except for where the fireworks are in their original package.

5. Fireworks shall be kept in a location out of the reach of the public when an attendant is not on duty.

6. Seasonal retail sales locations shall be secured when unoccupied and not open for business.

(C) Fireworks Discharge.

1. Fireworks shall not be ignited, discharged, or otherwise used within one hundred feet (100') of any location where fireworks are stored, sold, or offered for sale.

2. At least one (1) sign that reads as follows, in letters at least four inches (4") high on a contrasting background, shall be conspicuously posted at each entrance of seasonal retail sales locations:

NO FIREWORKS DISCHARGE WITHIN 100 FEET

(D) No Smoking Signs.

1. Smoking shall not be permitted inside or within twenty-five feet (25') of the seasonal retail sales area.

2. One (1) or more signs reading, "FIREWORKS—NO SMOKING" shall be displayed at each entrance of seasonal retail sales locations in letters not less than four inches (4") in height on a contrasting background.

(E) Separation Distances.

1. No motor vehicle shall be parked within ten feet (10') of a seasonal retail sales location.

2. No trailer used for the storage of consumer fireworks shall be parked within ten feet (10') of a seasonal retail sales location.

3. Temporary seasonal retail sales stands and tent side walls shall not be located within twenty feet (20') of the following, unless authorized by the authority having jurisdiction:

- A. Another building;
- B. Another seasonal retail sales location;
- C. Cooking equipment of any type.

4. Seasonal retail sales locations shall not be located within fifty feet (50') of the following:

A. Any gasoline pump, gasoline filling station, gasoline bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one (1) gallon;

B. Compressed natural gas dispensing facilities;

C. Retail propane dispensing station;

D. Aboveground storage tanks for flammable or combustible liquid, flammable gas or flammable liquefied gas;

E. Any type of open flame cooking equipment.

5. Portable generators shall be located not less than twenty feet (20') from a seasonal retail sales location.

(F) Means of Egress.

1. All means of egress from any temporary seasonal retail sales tent or stand shall remain clear and free of obstructions.

2. A minimum of two (2) remote means of egress shall be located in a seasonal retail sales location.

3. Exits provided for temporary seasonal retail sales stands shall be arranged so that the maximum egress travel distance does not exceed thirty-five feet (35').

4. Exits provided for seasonal retail tents shall be arranged so that the maximum egress travel distance measured from the most remote point to an exit along the natural and unobstructed path of egress travel, does not exceed seventy-five feet (75').

5. Aisles within a temporary seasonal retail sales tent, where the interior is accessible to the public, the minimum clear width shall be permitted to be not less than forty-eight inches (48").

6. Aisles within a temporary seasonal retail sales stand, where the interior is not accessible to the public, the minimum clear width shall be permitted to be not less than twenty-eight inches (28").

7. The required width of aisles shall be maintained unobstructed at all times the facility is occupied by the public.

8. Dead end aisles shall be prohibited.

9. Exit openings from seasonal retail sales tents shall be not less than forty-four inches (44") in width.

10. Egress doors in temporary seasonal retail sales stands where the interior is not accessible to the public shall be permitted to be not less than twenty-eight inches (28") in width.

11. Egress doors in temporary seasonal retail sales stands where the interior is accessible to the public shall be permitted to be not less than thirty-six inches (36") in width.

12. No fireworks shall be displayed for sale or stored within two feet (2') of any public exit, or private entrance or exit in an enclosed building.

(G) Exit Signs and Emergency Lighting.

1. Exit signs shall be required to be self-luminous or internally or externally illuminated.

2. Exit signs shall not be required to be illuminated in tents or stands that are not open for business after dusk or in temporary seasonal retail sales stands where the interior is not accessible to the public.

3. Emergency lighting shall not be required in tents or stands that are not open for business after dusk or for temporary seasonal retail sales stands where the interior is not accessible to the public.

4. Emergency lighting shall be required in seasonal retail sales locations when the retail sales area is eight hundred (800) square feet or greater.

(H) Electrical Equipment.

1. The electrical system and equipment shall be isolated from the public by proper elevation or guarding, and all electrical fuses and switches shall be enclosed in approved enclosures.

2. Electrical cables, including extension cords on the ground in areas traversed by the public shall be placed in trenches or protected by approved covers.

3. All extension cords shall be a minimum fourteen (14) gauge and multi-outlet power strips shall be UL approved and of the grounding type.

4. All multi-outlet power strips shall be UL approved and of the type with a circuit breaker for overload protection.

5. All electrical wiring, equipment, and devices shall be UL approved, installed and maintained to prevent electrical hazards.

6. All electrical lighting shall be UL approved, mounted and installed in a safe manner.

7. Branch circuits for receptacles, lighting and other uses shall be protected by ground fault circuit interrupters if susceptible to water exposure.

8. The power distribution panel shall be properly grounded with a minimum #6 solid copper wire connected to a copper clad ground rod. The ground wire must be connected to the ground rod using a UL approved ground rod clamp with the clamp being visible.

(I) Prohibited Activity/Items.

1. The retail sales of pest control devices, including their related storage and display shall be prohibited.



2. No electronic pest control device(s) shall be located inside a seasonal retail sales location.

3. The consumption or possession of alcoholic beverages in any seasonal retail sales location is prohibited during business hours.

4. Any person selling fireworks shall not knowingly sell consumer fireworks to any person who is obviously under the influence of alcohol or drugs.

5. Proximate and display fireworks shall not be allowed to be sold with consumer fireworks.

(8) Permit Requirements: Discharging Display or Proximate Fireworks.

(A) Permit(s) for display or proximate fireworks may be granted to municipalities, fair associations, amusement parks, organizations, persons, firms or corporations. Such permits may be granted upon application and approval by the state fire marshal or local authority having jurisdiction where the display is proposed to be held.

1. Application for a permit to conduct a display/proximate fireworks show issued by the state fire marshal shall meet the following requirements and be on a form provided by the state fire marshal:

A. Applicant shall be at least twenty-one (21) years of age;

B. The permit shall be issued per location per calendar year, except—

(I) Any change from the original site plan relating to distances, mortar size, mortar installation, firing method, etc. shall require a new application and submission of an additional permit fee;

C. A fee of one hundred dollars (\$100) shall be paid to the state fire marshal at the time of initial application for permit;

D. Identity of state licensed display/pyrotechnic operator shall be provided;

E. Applicant shall submit proof of insurance coverage insuring the applicant with liability insurance in order to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person, firm or corporation or any agent or employee thereof with an occurrence limit of not less than one (1) million dollars. Additionally, insurance coverage of an employer for whom the individual is employed shall be considered to comply with the aforementioned, if the coverage provides equivalent coverage for each employee;

F. If applicant is conducting a display under the auspices of a municipality or political subdivision the applicant shall be exempt from liability insurance coverage if the

municipality or political subdivision possesses liability insurance covering the applicant with an occurrence limit of not less than one (1) million dollars;

G. Applicant shall submit a detailed site plan, to include but not be limited to distance requirements per NFPA, firing method, mortar installation and product being used along with the name of the licensed or pyrotechnic operator to the state fire marshal a minimum of ten (10) working days prior to the date of the event;

H. Upon request applicant shall provide Material Safety Data Sheets (MSDS) relating to the products being used;

I. No permit granted shall be transferable;

J. The permit shall apply to only one (1) location.

2. A copy of a display or proximate fireworks permit issued by the local authority having jurisdiction shall be submitted by the permit holder to the state fire marshal within forty-five (45) days of the display or upon request of the state fire marshal.

3. Any venue where proximate fireworks are to be discharged shall be inspected by the state fire marshal or local authority having jurisdiction for compliance with NFPA 1126.

4. Any establishment where proximate fireworks are to be discharged indoors shall be inspected by the state fire marshal or local authority having jurisdiction for compliance with NFPA 1126 and NFPA 101 *Life Safety Code* or equivalent nationally recognized code in relation to means of egress, occupancy load, and automatic sprinkler and fire alarm systems.

5. Provisions shall be made for adequate fire protection at a level determined by the jurisdiction where the display is to be conducted.

6. Safety monitors shall be required per NFPA 1123 and/or NFPA 1126.

7. This subsection shall not preclude a political subdivision, county or city from imposing by ordinance the requirement to notify local authorities of the intent to conduct such display.

(9) Licensed/Pyrotechnic Display Operator.

(A) Every fireworks display or proximate fireworks display shall be supervised, managed, or directed by a Missouri state licensed operator or pyrotechnic operator on-site.

(B) Licensed/pyrotechnic display operators shall complete and submit, on a form provided by the state fire marshal a licensed/pyrotechnic display operator application and meet the minimum requirements listed below:

1. Applicant shall be at least twenty-one (21) years of age;

2. Applicant shall not have a felony conviction or have pleaded guilty to a felony;

3. A fee of one hundred dollars (\$100) shall be paid to the state fire marshal at the time of application for licensure;

4. Applicant shall provide two (2) passport type photographs per license requested;

5. The state fire marshal will consider the following criteria in determining whether to issue a license to the applicant under the provisions of this rule:

A. Documentation that applicant has attended courses relating to pyrotechnics;

B. An applicant shall submit evidence of experience, which must include active participation as an assistant or operator in the performance of at least three (3) fireworks displays or proximate fireworks displays, at least one of which must have occurred in the current or preceding year;

C. Applicant shall complete a written examination administered by the state fire marshal and achieve a passing score of at least seventy percent (70%).

(I) Any person failing to pass the examination may retake the examination after a thirty (30)-day waiting period.

(II) Any person failing to pass the examination a second time may retake the examination after a ninety (90)-day waiting period;

D. Any licenses or certifications from other jurisdictions or licensing entities approved by the state fire marshal;

E. References from local authorities, sponsors, employers, and fireworks/pyrotechnic companies;

F. Copy of U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives permit/license if applicable;

6. To obtain recertification, the applicant shall be required to meet the following criteria:

A. Provide documentation that applicant has attended a minimum of twelve (12) hours of continuing education relating to pyrotechnics within the past three (3) years.

B. Provide documentation of actively participating in at least three (3) fireworks displays or proximate fireworks displays.

C. A fee of one hundred dollars (\$100) shall be paid at the time of recertification to the state fire marshal;

7. The licensee shall carry his/her license at all times when engaging in pyrotechnic display activity;

8. Each license issued pursuant to this section shall specify the licensee's name, state issued license number, the licensee's



effective date and expiration date and photograph;

9. In any case where the state fire marshal denies, suspends or revokes a license, a written notice of the basis for the denial, suspension or revocation shall be provided to the applicant or license holder;

10. Upon notice of revocation or suspension, the license holder shall surrender the license and all copies thereof to the state fire marshal immediately. No person shall supervise a fireworks display or proximate display once their license has been revoked or suspended;

11. Upon notice of denial, suspension or revocation of a license, the decision may be appealed in writing to the state fire marshal within forty-five (45) days of the denial, suspension or revocation requesting an administrative hearing pursuant to the provisions of section 621.045, RSMo;

12. The state fire marshal may deny, suspend or revoke licensure of any applicant when it is found that the applicant or licensee:

A. Has knowingly made a material misrepresentation of any information required for licensure;

B. Has knowingly by any means of false pretense, deception, fraud, misrepresentation or cheating obtained training or licensure;

13. No person shall handle display/proximate fireworks or cause any person to handle or discharge display/proximate fireworks in this state unless such use of display/proximate fireworks are under the direct supervision and responsibility of a state licensed operator or pyrotechnic operator pursuant to this rule. Persons working under the direct supervision of a licensed operator or pyrotechnic operator at the site shall not be in violation of this rule.

(10) Violations.

(A) A permittee will receive a written warning from the state fire marshal for violation of any of the following:

1. Failing to properly display a No Smoking sign(s);

2. Failing to properly display a No Smoking sign(s) of sufficient size;

3. Failing to properly display a permit or license;

4. Selling or offering for sale fireworks that are not properly labeled;

5. Exposing fireworks not in the original package to direct sunlight while displayed and unattended, as defined by section 320.146.1, RSMo;

6. Leaving unattended fireworks accessible to the public;

7. Attempting to make or making a sale of fireworks out of season as defined in section 320.106(9), RSMo to someone for use or distribution within the state of Missouri;

8. Knowingly allowing an open flame or smoking within twenty-five feet (25') of a place where fireworks are manufactured, stored, kept, or offered for sale;

9. Selling to a child under the age of fourteen (14) who is not in the presence of his/her parent or guardian;

10. Receiving fireworks without a permit if the permittee was permitted but failed to renew;

11. Selling fireworks without a permit if the permittee was permitted but failed to renew;

12. Selling from other than a permanent structure, except for retail sales during fireworks seasons;

13. Storing fireworks too close to volatile liquids or gases, as defined by section 320.146(2), RSMo;

14. Selling or shipping fireworks to a consumer within a city or county lawfully prohibiting the sale or possession of fireworks pursuant to section 320.121, RSMo;

15. Employing a person less than sixteen (16) years of age who is unsupervised;

16. Selling or offering for sale or displaying fireworks to consumers that are marked other than UN0336, 1.4G;

17. Failure of distributors and manufacturers to retain copies of applicable permit(s) or license(s) issued for display and/or proximate fireworks transactions for one (1) year after the transaction;

18. Selling fireworks for resale in this state to a distributor, manufacturer, jobber, wholesaler or seasonal retailer who has not first obtained their current permits as required by law.

(B) Subsequent violation of any of the acts set forth in subsection (10)(A) will result in the suspension or revocation of the permit(s) of the permittee for a period as determined by the state fire marshal.

(C) Violation of any of the following laws or regulations may result in the suspension or revocation of the permit(s) for a period not to exceed three (3) years and/or the refusal of the fire marshal to renew or issue a permit(s) to the permittee or owner:

1. Selling or improperly possessing fireworks while the permit or license has been suspended or revoked;

2. Allowing another person or business to use or display the license of a licensee;

3. Possessing or manufacturing illegal fireworks or selling or offering for sale illegal fireworks as defined in section 320.136, RSMo;

4. Failing or refusing to allow a reasonable inspection of any premises and all portions of buildings where fireworks are being stored or are being offered for sale. A reasonable request is one made either during daylight hours or while the premises or building are open for business;

5. Failing to fully cooperate with a reasonable request during an inspection;

6. Failure to obtain a permit for display or proximate fireworks site;

7. Performing a display or proximate fireworks display without having obtained a licensed operator or pyrotechnic operator permit from the Missouri State Fire Marshal;

8. Failure of the applicant to obtain all required permit(s) and/or license(s) required as per 320.111(1), RSMo.

(D) The state fire marshal will indicate to the permit holder, in writing, the statute(s) and any regulations violated. Appeals from any decision of the state fire marshal will be made to the Administrative Hearing Commission, except in cases in which a charged violation includes a violation of the criminal laws.

(E) The period of suspension or revocation imposed by the state fire marshal will remain in effect against the permit holder's future business, partnership, corporation or entity even if an attempt to change ownership or control of that permit holder's business, partnership, corporation or entity is made or attempted.

(F) Persons found guilty of handling or discharging display/proximate fireworks, or directing, ordering or otherwise causing any person to handle or fire display/proximate fireworks in this state without having a valid license shall be guilty of a Class A misdemeanor.

(11) Incident Reporting; Licensed Operator/Pyrotechnic Operator Responsibility.

(A) It is the responsibility of the licensed operator/pyrotechnic operator to immediately report any discharge related incident identified below to local law enforcement or fire service agencies and request such agency to notify the Office of the State Fire Marshal—

1. Injury to any person requiring immediate medical treatment;

2. A fire or damage to property in an amount reportable to the operator's insurance company;

3. Loss of life.

(B) After a reportable incident has occurred, the scene shall not be altered or tampered with in any manner unless authorized by the state fire marshal or designee, until an investigation/inspection can be completed.



(C) Failure of the licensed operator/pyrotechnic operator to report an incident identified in this section may be subject to their license being suspended or revoked by the state fire marshal for a period of time not to exceed three (3) years.

AUTHORITY: section 320.111.9, RSMo Supp. 2004. Original rule filed Sept. 29, 1988, effective Feb. 24, 1989. Amended: Filed May 1, 1989, effective July 13, 1989. Emergency rescission and rule filed Aug. 31, 2004, effective Sept. 10, 2004, expired March 9, 2005. Rescinded and readopted: Filed Aug. 31, 2004, effective March 30, 2005.*

**Original authority: 320.111.9, RSMo 1985, amended 1987, 1993, 1995, 1999, 2004.*

From: [Olson-Douglas, Erin](#)
To: [Cownie, Frank](#); [Coleman, Chris](#); [Mandelbaum, Josh T.](#); [Gatto, Joe P.](#); [Joe P. Gatto \(Ext\)](#); [Connie Boesen](#); [Westergaard, Linda C.](#); [Gray, William S.](#)
Cc: [Sanders, Scott E.](#); [Anderson, Matthew A.](#); [McDowell, Lawrence R.](#)
Subject: FW: 2/12/18 IEC Board Meeting
Date: Thursday, February 08, 2018 5:26:32 PM
Attachments: [IEC Authorizing Resolution 2018 \(01445402x7F7E1\).DOC](#)
[A R Indenture - IEC Hotel \(01418008-3x7F7E1\).docx](#)
[IRA Indenture \(01438961-5x7F7E1\).docx](#)
[Certificate Purchase Agreement Series A - IEC Hotel 2018 \(01449165-2x7F7E1\).DOCX](#)
[Certificate Purchase Agreement Series C - IEC Hotel 2018 \(01449456\).docx](#)
[Certificate Purchase Agreement Series D - IEC Hotel 2018 \(01449475\).docx](#)
[Certificate Purchase Agreement Series E - IEC Hotel 2018 \(01449483\).docx](#)
[Tax Exemption Certificate A-1, A-2 & B - IEC Hotel 2018 \(01447163\).DOCX \[Compatibility Model\].docx](#)
[GWB FIRST MORTGAGE & SECURITY AGREEMENT \(01445654\).docx](#)
[POLK COUNTY SECOND MORTGAGE & SECURITY AGREEMENT \(01445814\).docx](#)
[IEC Series C-1 and C-2 Security Agreement \(01445212\).DOCX \[Compatibility Model\].docx](#)
[IEC Series D Security Agreement \(01445247\).DOCX \[Compatibility Model\].docx](#)
[IEC Series E Security Agreement \(01445250\).DOCX \[Compatibility Model\].docx](#)
[IEC Document Checklist \(01449272x7F7E1\).DOCX](#)
[1-30-18 minutes .pdf](#)
[February 12 Agenda.pdf](#)
[IEC Authorizing Resolution 2018 \(01445402x7F7E1\).DOC](#)
[IEC Authorizing Resolution 2018 \(01445402x7F7E1\).DOC](#)
[IEC Authorizing Resolution 2018 \(01445402x7F7E1\).DOC](#)
[image001.png](#)

Greetings Mayor, Council,

Please see agenda and information attached for upcoming IEC Hotel Board meeting.

Completion is imminent. As you can see a number of actions are required of the IEC Corporation. There is a Council workshop presentation planned for 2/19 to provide background on a couple of remaining Council actions. Hotel is slated for opening on 3/21 – invitations to ribbon cutting at noon on 3/21 and opening night party are being sent by Hilton.

Best Regards,
Erin

Erin Olson - Douglas, AIA
Economic Development Director


CITY OF DES MOINES
OFFICE OF ECONOMIC DEVELOPMENT
400 Robert D. Ray Dr | Des Moines, IA 50309
PH: 515.283.4021 | E: eodouglas@dmgov.org

From: Mark Wandro [<mailto:Mark.Wandro@polkcountyiowa.gov>]
Sent: Thursday, February 08, 2018 11:02 AM
To: Allen McKinley <apmckinleydmia@gmail.com>; Annette Renaud <annette.renaud@mcgough.com>; Bonnie Campbell <bonnie@lpcapublicstrategies.com>; Galloway, Mike <mgalloway@ahlerslaw.com>; Grant Friesth <Grant.L.Friesth@wellsfargo.com>; Kaduce, Adam

<kaduce.adam@rrrealty.com>; Neugent, Gerry <gerryn@knappproperties.com>

Cc: Oswald, Tim <Timothy.J.Oswald@pjc.com>; Eric Boehlert <eboehler@ahlerslaw.com>; John H. Bunz (JBunz@ahlerslaw.com) <JBunz@ahlerslaw.com>; Matt Felling (matt.felling@hilton.com) <matt.felling@hilton.com>; Jim McCulloh <jim.mcculloh@weitz.com>; Olson-Douglas, Erin <EODouglas@dmgov.org>; Anderson, Matthew A. <MAAnderson@dmgov.org>; Tim Leach <tleach@desmoinesmetro.com>; Chad Sorensen <csorensen@chmwarnick.com>; Wayne E. Reames <WEReames@belinmccormick.com>; Jennifer Cooper <JCooper@bankerstrust.com>; Sarah Boese <Sarah.Boese@polkcountyiowa.gov>; Kristen Ingle <Kristen.Ingle@polkcountyiowa.gov>; Ralph E. Marasco, Jr. <Ralph.Marasco@polkcountyiowa.gov>

Subject: FW: 2/12/18 IEC Board Meeting

Attached is your meeting agenda, 1/30/18 meeting minutes, a authorizing resolution and 13 supporting documents for your Monday February 12th board meeting. I know it is a lot of material but John Bunz and Eric Boehlert will be present to walk you through it. The documents will be displayed on the monitors in room 120 at your meeting if you have specific questions eliminating the need for a large volume of paper to be brought with you.

Let me know if have any questions.

Thank you,

Mark



CITY OF **DES MOINES**

OFFICE OF ECONOMIC DEVELOPMENT

From: [Goldbeck, Pa V.](#)
To: [Goldbeck, Pa V.](#)
Subject: FW: 7/28 - Joint Message from HUD IG and CPD to All Grantees
Date: Friday, July 29, 2016 2:38:37 PM
Attachments: [Conflicts of Interest Integrity Bulletin CPD.pdf](#)
[image001.png](#)

Pa Vang Goldbeck

Liaison to Mayor and City Council
City Manager's Office
City of Des Moines
Phone: (515)283-4054



From: CPD_Announcements [mailto:CPD_Announcements@hud.gov]
Sent: Thursday, July 28, 2016 12:25 PM
To: Cownie, Frank <FCownie@DMGOV.ORG>
Cc: Ritter, Dan E. <DERitter@dmgov.org>; Johansen, Chris M. <CMJohansen@dmgov.org>
Subject: 7/28 - Joint Message from HUD IG and CPD to All Grantees

July 28, 2016

A Message from: Principal Deputy Assistant Secretary for Community Planning and Development,
Harriet Tregoning and Inspector General, David A. Montoya

7 Keys to Handling Conflicts of Interest

Conflicts of interest arise when officials or staff stand to benefit--either directly themselves or indirectly through business partners or relatives--from the awarding or contracting of grant funds. Grantees are encouraged to avoid conflicts of interest to the extent possible. When conflicts of interest arise, grantees must identify, disclose, and manage them in compliance with applicable rules and regulations. When conflict-of-interest issues are overlooked or hidden, this creates problems for the individuals involved, as well as grantees, subrecipients, or contractors.

This bulletin discusses common types of conflicts of interest, offers best practices for avoiding and managing them, and the potential consequences of not handling them appropriately. It provides seven keys to handling conflicts of interest when using CPD program funds in procurement or non-procurement activities—knowing the requirements; training employees; creating procedures to document compliance; implementing the regulations; knowing the consequences; requesting exceptions; and getting help. The Bulletin provides examples of conflict-of-interest issues in both procurement and non-procurement activities, along with ways in which these conflicts could have

been better managed.

The states, local governments and nonprofits that use CPD program funds are encouraged to review this Integrity Bulletin and apply lessons contained herein to current and upcoming procurement and program delivery activities. We would also like to get your feedback on the usefulness of the bulletin. If you have comments to share please direct them to Alexa Rosenberg at Alexa.E.Rosenberg@hud.gov.

For more information on conflicts of interest or other CPD program related issues we encourage you to utilize HUD's Technical Assistance website, the HUD Exchange (www.hudexchange.info).

Thank you for your time and thank you for your work on HUD's CPD programs.

Sincerely,

Harriet Tregoning
Principal Deputy Assistant Secretary for
Community Planning and Development

David A. Montoya
Inspector General



7 Keys to Handling Conflicts of Interest

Conflicts of interest arise when officials or staff stand to benefit--either directly themselves or indirectly through business partners or relatives--from the awarding or contracting of grant funds. Grantees are encouraged to avoid conflicts of interest to the extent possible. When conflicts of interest arise, grantees must identify, disclose, and manage them in compliance with applicable rules and regulations. When conflict-of-interest issues are overlooked or hidden, this creates problems for the individuals involved, as well as grantees, subrecipients, or contractors. This bulletin discusses common types of conflicts of interest, offers best practices for avoiding and managing them, and the potential consequences of not handling them appropriately.

Identify, disclose, and manage all real and apparent conflicts of interest through elimination, mitigation, or waivers.



1. Know the Requirements

In general, conflicts of interest occur when one's private interest and public duties overlap, resulting in a real or perceived lack of independence or impartiality. Common situations include:

- Elected officials voting on awarding of funds to organizations where a family member is on the staff or where the elected official is on the subrecipient's board;
- Executive directors of subrecipients entering into contracts with companies they are affiliated with through employment of, or ownership by, themselves or their relatives;
- Grantee officials or staff who have relatives who may benefit from a subrecipient's programmatic activities; and
- Failure to notify the U.S. Department of Housing and Urban Development (HUD) about conflicts of interest, or late and or incomplete requests for exceptions.

The existence of a conflict of interest does not necessarily mean that any individual acted improperly or illegally, but it does mean that, unless properly handled and addressed, he or she could end up being in violation of Federal rules. Therefore, all such cases must be identified and resolved by eliminating the conflict or obtaining a written exception.

Two sets of conflict-of-interest rules exist – one for procurement activities and others for non-procurement, sub-granting/program delivery activities.

- A. Procurement Standards:** Regulations at 2 CFR (Code of Federal Regulations) 200.318(c) require non-Federal entities to maintain written standards of conduct

Regulations are in transition between grants issued before December 26, 2014 (when 2 CFR Part 200 went into effect), and those issued later. See the footnote below for more detail.¹

Example of a Procurement Conflict of Interest

- A Neighborhood Stabilization Program (NSP) grantee funded a subrecipient to rehabilitate 28 homes. The subrecipient failed to report a conflict-of-interest situation when it entered into two contracts with a construction company that was 50 percent owned by the NSP subrecipient's executive director. Although the subrecipient stated that it had disclosed all relationships to the grantee in the proposal process, the grantee overlooked HUD's conflict-of-interest requirements and the requirements found in the agreement. Because the grantee approved the proposal and awarded the agreement, the subrecipient believed that there were no conflict-of-interest issues. The grantee should have flagged the conflict of interest situation during its risk assessment of the subrecipient and prohibited the use of the executive director's construction firm.

- B. Non-procurement Standards:** Regulations at 2 CFR 200.112 require HUD to establish conflict-of-interest policies for Federal awards and require non-Federal entities to disclose in writing any potential conflict of interest to HUD or a pass-through entity in accordance with HUD's policy. HUD is finalizing its conflict-of-interest policy, but entities are still expected to use the policies developed under the various Community Planning and Development (CPD) program-specific regulations. In general, all CPD program regulations prohibit grant-assisted activity benefitting relatives of people who work for the grantee or the pass-through entity.

Example of Non-Procurement Conflict of Interest

- A city awarded a Community Housing Development Organization (CHDO) \$215,975 in HOME funds to sell and construct one single-family home. At the time of the award, a city official's daughter was the president of the CHDO. The city official abstained from voting on the basis that there was a relationship with the executive director. However, the city was required to disclose these relationships to HUD and had not done so. The city should have developed and implemented written procedures to ensure compliance with HUD's conflict-of-interest regulations, including disclosure of potential conflict-of-interest situations.



2. Train Employees

Grantees and subrecipients ought to build an organizational culture that is conscious of potential conflicts of interest so that action can be taken to avoid or mitigate conflicts as they arise. Provide conflict-of-interest training for all employees, including those of the organization and

¹ For more detail see Special Directive SD-2015-01, dated February 26, 2015, "Transition to 2 CFR Part 200," Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance. (<http://portal.hud.gov/hudportal/documents/huddoc?id=15-01sdn.pdf>)

the governing authority, the organization's leadership and, as appropriate, the organization's agents. To have the most impact, the organization should have a written policy requiring annual conflict-of-interest training, and legal counsel or other qualified individuals should review the policy with employees (and board members), subrecipient officers, and pass-through entity staff at least annually. Documenting training is a best practice. The organization should:

- Provide training;
- Require that staff annually submit certifications regarding outside businesses, outside employment, and volunteer positions;
- Record a certification of attendance at trainings; and
- Follow up with annual refresher sessions.



3. Create Procedures to Document Compliance

Conflict-of-interest policies and procedures should describe how conflicts will be handled. When a conflict or potential conflict of interest exists, the person with the conflict should advise the board or management committee in writing and seek guidance on how to resolve the conflict. Conflict-of-interest notifications usually include:

- The person's name, position, phone number and address;
- Details of the nature of the conflict of interest, (perceived, apparent, or actual);
- Date of notification; and
- Requested action to address the conflict of interest (recusal, exemption request, etc.).

The notification and subsequent actions should be recorded in minutes of board or management meetings. Record-keeping best practices includes documenting:

- Conflict-of-interest notifications;
- Cases of failure to disclose;
- Disclosure by others (for example colleague or member of the public);
- Reviews or investigations of alleged conflicts;
- Assessment of the matter and how it was considered;
- Action taken or resolution; and
- Annoying or trivial claims.



4. Implement the Regulations

Often people are unaware that their activities are in conflict with the best interests of the organization. A goal should be to raise awareness, encourage disclosure and discussion of issues that may constitute a conflict, and constantly encourage a "culture of candor."

Leadership and culture are important aspects of compliance. Boards or leaders should establish a culture of compliance and honesty and encourage disclosure by establishing a protocol for staff to self-report possible conflicts, raise suspected conflict-of-interest issues, or ask for guidance, without fear of retaliation. Leadership should appoint an individual or office to ensure conflict-of-interest rules are implemented and followed. However, the protocol should not rely solely on

voluntary compliance, but also on procedures to allow grantees and subrecipients to report and have independent checks made to ensure that conflicts do not exist.

Monitoring is a best practice that entails having someone review the names of the principals of businesses that may become subrecipients, contractors or suppliers to determine whether there are apparent or real conflicts of interest with staff or agents of the awarding entity or pass-through entity. Many organizations circulate a questionnaire each year (usually in conjunction with training) to find out whether any board member, officer, or employee has a conflict of interest. Typically, the questionnaire asks them to disclose existing conflicts and reminds them to disclose any that may crop up in the future.

Monitors should also determine whether subrecipients have conflicts of interest in sub-awards and contracts by asking them to disclose the names of their immediate family and business partners and those of the principals of the organizations and contractors with which they transact grant project business.

The primary goal in managing conflicts of interest is to ensure that as decisions are made, they are seen to be made on proper grounds, for legitimate reasons, and without bias or unfairness.



5. Know the Consequences

Violating conflict-of-interest rules can have serious consequences for a grant program. Bad publicity surrounding undisclosed conflicts may seriously undermine the public trust in the program as well as damage personal reputations. Audits and investigations can result in the grantee's having to repay Federal funds, or individuals being fired or prosecuted.

A Conflict of Interest Can Lead to Criminal Actions

In some cases, conflicts of interest can lead to criminal prosecutions. It's not that the conflict of interest itself is a criminal act, but it can lead to other acts, such as deliberately hiding relationships, financial gains or other advantages through false statements, misrepresentations, or filing false documents, which are crimes. With such personal risk at stake, it is easy to see why disclosures of conflicts of interest are so important.

Example of a Prosecution Resulting from a Conflict of Interest

- A former planning commissioner and her ex-boyfriend were convicted on Federal corruption charges. The pair took part in a scheme in which she steered more than \$2 million in contracts and loans to him. She got the agency to award a computer contract to the ex-boyfriend's company. The contract, which started at \$8,900, escalated to about \$1 million over 5 years. The former planning commissioner did not reveal details of her personal relationship with the ex-boyfriend and helped keep his name off the contracts his company received. She knowingly hid the conflict of interest and personally benefited from her actions. As a result, she and her ex-boyfriend were convicted. Sentencing is pending.

If you have knowledge of possible fraud, promptly report it to your local HUD Office of Inspector General (OIG) or online to the OIG hotline on OIG's Web site at <https://www.hudoig.gov/report-fraud>.



6. Request an Exception

HUD may grant an exception to non-procurement conflicts of interest on a case-by-case basis. It is the recipient's responsibility to submit a written request for an exception to its local HUD CPD office. When submitting a request, the recipient must provide the following documentation as threshold requirements for consideration:

- A public disclosure of the conflict (include how the disclosure was made); and
- An opinion of the recipient's attorney that the exception does not violate State or local law.

HUD determines whether threshold requirements are met and whether the circumstances fall within exception criteria permitted by the regulations. Remember that submitting a request does not authorize a recipient to engage in any activity or enter into any contract that constitutes a conflict. The recipient may proceed only after receiving the approval in writing from HUD.



7. Get Help

Conflict-of-interest requirements are often nuanced and must be reviewed case by case. HUD provides assistance when conflict-of-interest situations arise or are in question. You can get help from your local CPD office when such issues arise.

*Bottom line:
Conflicts of interest are situations not allegations...
BUT they must be disclosed and managed properly.*



From: [Sanders, Scott E.](#)
To: [Cownie, Frank](#)
Subject: FW: Additional information disclosure update
Date: Tuesday, February 21, 2017 7:46:24 PM
Attachments: [DSM WW Disclosure 12-31-15.pdf](#)

See attachment for list of assets and larger users (ADM, Pine Ridge and Firestone are largest)

DES MOINES WATER WORKS
DISCLOSURE INFORMATION
FOR THE FISCAL YEAR ENDED DECEMBER 31, 2015
CITY OF DES MOINES
WATER REVENUE BONDS, SERIES 2011
WATER REVENUE BONDS, SERIES 2012

THE WATER WORKS SYSTEM

The water sources for the System are the Raccoon River and, since 1981, the Des Moines River. An intake and pumping station was constructed in 1949 for direct withdrawal of water from the Raccoon River, to supplement the underground infiltration gallery, which relies on seepage from the Raccoon River. In 1981 the Water Works constructed facilities to tap the Des Moines River as an additional source of water supply. Wells along the Raccoon River near Maffitt Reservoir just west of Des Moines were added as a water source in 2000 to supply the newly constructed Treatment Plant at Maffitt Reservoir. Wells along the Des Moines River near the Saylorville Lake were added as a water source in 2009 to supply the newly constructed Saylorville Water Treatment Plant. These five sources are used to provide adequate supply in the most cost-effective combination.

The Water Works withdraws raw water from both the Raccoon and Des Moines Rivers under the authority of a permit issued by the State of Iowa Department of Natural Resources (IDNR). The present permit was issued for a ten-year period and expires in July, 2025. Under the terms of the permit, the Water Works is limited by the IDNR to no more than 120 million gallons per day (MGD) or 28.87 billion gallons per year from the combined water sources. The Water Works' maximum daily demand for the year 2015 was 68.53 million gallons and total usage for the year was 15.8 billion gallons.

To insure an adequate supply of water in the Raccoon River and at the Maffitt plant, the Water Works owns the 1.5 billion gallon capacity Maffitt Reservoir. During times of low river flow, water from this reservoir is released directly into the Raccoon River to increase flow downstream at the Fleur Drive plant and is also used to supplement output from the Maffitt plant's wells.

In 1983, the Water Works contracted with IDNR for the storage of water in Saylorville reservoir. The IDNR is compensated annually under the terms of this contract, which authorizes the Water Works to request release of water into the Des Moines River.

The present facilities of the Water Works consist of:

- A. The infiltration gallery system with a total length of over three miles.
- B. A river intake and low-lift pumping station on the Raccoon River at the Fleur Drive plant with total raw water pumping capacity of 85 MGD.
- C. A river intake and pumping station on the Des Moines Rivers with total raw water pumping capacity of 100 MGD.
- D. 1 - Horizontal and 6 - radial collector wells at the Maffitt Plant.
- E. The 1.5 billion gallon Maffitt Reservoir. Maffitt Park, approximately 400 acres surrounding the 200-acre reservoir, includes nature trails, picnic facilities and fishing opportunities.
- F. The Treatment Plant at Maffitt Reservoir, funded in part by Water Revenue Bonds, Series 1997, with treatment capacity of 25 MGD.
- G. The Fleur Drive chemical treatment and softening plant with treatment capacity of 75 MGD.
- H. A high-lift pumping station at the Fleur Drive plant with capacity to pump 136 MGD of treated water into the distribution system.
- I. 2-Radial collector wells at the Saylorville Water Treatment plant.
- J. The Saylorville Water Treatment Plant, funded in part by Water Revenue Bonds, Series 2006, with treatment capacity of 10 MGD.
- K. A distribution system consisting of over 1,500 miles of pipe ranging in size from 4" to 60". This system serves over 80,000 connections and over 9,600 hydrants.
- L. Three standpipes and an elevated tower with total storage capacity of 12.4 million gallons of treated water; underground and surface storage with storage of 28 million gallons; and 540 million gallons of underground aquifer storage. The Water Works' suburban and rural water district customers have an additional 20.64 million gallons of treated water storage capacity in elevated and ground storage structures and 135 million gallons of underground aquifer storage.
- M. Approximately 1,500 acres of grounds on Fleur Drive in Des Moines. Unique to the Water Works System is Water Works Park. The Park was opened in 1933 and is the site of the Fleur Drive treatment facility and the Water Works' administrative offices. The Park is wholly owned, operated and maintained by the Water Works. Some of the Park's amenities include bike and horse trails, an arboretum, picnic facilities and fishing ponds. Events at the arboretum, fun

runs and the holiday lights show draw approximately 100,000 visitors annually from throughout the Des Moines metropolitan area.

The Water Works provides retail water service to residents within the City and, by contract, to residents in the City of Windsor Heights, City of Pleasant Hill, unincorporated village of Greenfield Plaza, parts of unincorporated Polk County, City of Runnells, City of Alleman, City of Cumming, Polk County Rural Water District #1 and Berwick Water Association. The Water Works also provides wholesale water service based on long-term contracts to eleven municipalities and rural water districts. Appendix 1 shows details of these service relationships. Estimated population growth over the past five years for the service area as a whole appears in Appendix 2. The Water Works also provides billing and collection services on a contractual basis to wholesale customers and billing and collection services to the City of Des Moines for wastewater treatment, solid waste collection and the storm water utility.

The Water Works has supplied water to suburban entities for over 70 years, initially providing water service only to a contract community's boundary. As the suburban areas around the City have expanded, the need developed for water storage facilities, booster stations and additional treatment capacity to meet peak demand requirements. The most economical approach for the Water Works has involved utilizing these facilities to supply multiple customers. Contractual service users share in the cost of these joint-use facilities, which allows for meeting peak use demands and also allows some users to participate in lower "off-peak" or "purchased capacity" water rates. Therefore, negotiated contracts provided for both wholesale water and the proportional cost of constructing and operating joint-use shared facilities. The Treatment Plant at Maffitt Reservoir financed in part by Water Revenue Bonds, Series 1997 (refunded by Series 2004 & Series 2011) is such a joint-use shared facility. Financial participation includes initial cash contributions or payments of debt service for the improvements as well as operating and maintenance costs. Although financed by the end users, ownership of these facilities is maintained by the Water Works. Where contracts provide for capital improvements necessary to supply wholesale water, they are generally for a period of forty years with provisions for renewal. The Water Works anticipates that this approach will continue and that additional joint-use facilities will be constructed in the future.

WATER WORKS SYSTEM OPERATIONS

As of December 31, 2015 the Water Works has over 81,000 metered locations of which 93.8% are residential, 6.1% are commercial and 0.1% are industrial. Included in this total are 52 metered accounts for wholesale contracts with eleven municipalities and rural water districts. Not included in this are approximately 165 accounts for the City of Des Moines and its agencies and approximately 1,300 unmetered private fire services.

Appendices 3 and 4 list the Water Works' ten largest retail and ten largest wholesale customers, respectively, ranked by calendar year 2015 water usage. Appendix 5 shows

total water usage by year for the past ten calendar years and Appendix 6 summarizes daily demand statistics for the System for the past three calendar years.

The Water Works Board of Trustees has full authority to determine the water rates of the System without application to any regulatory authority. The Water Works has historically provided free water service to the City and in structuring user rates for retail customers; only users inside the City incur the cost of this free service. In addition, the cost of fire protection services performed for the City, primarily maintenance of fire hydrants, is charged only to City users. Appendix 7 shows historical user rates and the user rates as of December 31, 2015, which had been in effect since April 1, 2015. Other retail area rates are set based upon the cost to provide service within their own service area. Wholesale municipal and rural water district customers are charged the rates listed under the “Political Subdivision” category.

The current monthly cost for water service to an “average” family of four using 9,600 gallons of water per month is \$38.64 inside City limits, \$43.42 outside City limits, \$71.22 in Polk County and \$41.22 in Windsor Heights.

SYSTEM DEBT

The Water Works has aggregate principal amounts of \$1,005,000 for outstanding Water Revenue Capital Loan Notes Series 2003, \$2,615,001 for Water Revenue Bonds Series 2011, and \$33,850,000 for Water Revenue Bonds Series 2012 totaling \$37,470,001 for the System as a whole. Appendix 8 lists principal amounts by year of maturity and Appendix 9 summarizes the combined annual principal and interest requirements by year. Historical net revenues and debt service coverage for the past five fiscal years appear in Appendix 10.

SYSTEM FINANCIAL INFORMATION

The financial statements for the Water Works System reflect the accrual basis of accounting. Revenues are recognized in the accounting period in which they are earned and become measurable; expenses are recognized when incurred, if measurable. Unbilled utility service receivables are recorded at year-end. Audited financial statements for the year ended December 31, 2015 are attached.

Appendix 1

Overview of Water Works Service Area

<u>Contracted Community</u>	<u>County Location</u>	<u>2014 Estimated Population</u>	<u>Date of Initial Contract</u>	<u>Service Provided</u>
City of Des Moines	Polk	218,897	N/A	Retail Water
City of Urbandale	Polk	42,463	7/26/34	Wholesale Water
Polk County Rural Water District #1	Polk	1,291	7/30/48	Retail Water and Engineering
City of Pleasant Hill	Polk	9,453	10/7/58	Retail Water and Engineering
City of Clive	Polk	16,621	10/30/58	Wholesale Water
City of Windsor Heights	Polk	5,229	3/6/62	Retail Water and Engineering
City of Norwalk	Warren	9,625	4/29/69	Wholesale Water
City of Johnston	Polk	18,591	3/20/73	Wholesale Water
City of Ankeny	Polk	49,047	12/16/74	Wholesale Water
City of West Des Moines	Polk	60,912	3/10/77	Wholesale Water
Berwick	Polk	538	3/30/78	Retail Water and Engineering
Greenfield Plaza	Warren	2,152	8/30/79	Retail Water and Engineering
S.E. Polk Rural Water District	Polk	4,531	1/26/83	Retail Water and Engineering
Polk County Service Area	Polk	9,989	6/1/84	Retail Water and Engineering
Warren Water District	Warren	10,970	8/10/87	Wholesale Water
City of Waukee	Dallas	14,838	7/1/88	Wholesale Water
Xenia Rural Water District	Dallas	7,079	7/21/94	Wholesale Water
City of Bondurant	Polk	4,153	4/25/00	Wholesale Water
City of Polk City	Polk	3,678	3/26/02	Wholesale Water
City of Runnells	Polk	546	4/1/06	Retail Water and Engineering
City of Cumming	Polk	378	2/1/07	Retail Water and Engineering
City of Alleman	Polk	465	7/1/07	Retail Water and Engineering

Appendix 2

Service Area Population (1)

<u>Year</u>	<u>Estimated Population</u>
2011	459,944
2012	467,625
2013	475,435
2014	483,375
2015	491,447

(1) Source: Des Moines Water Works

Appendix 3

Largest Retail Users
Ranked by Calendar Year 2015 Water Usage

<u>User Name</u>	<u>Service/Product</u>	Years Ending December 31			
		2014		2015	
		Thousands of Gallons	Water Billing	Thousands of Gallons	Water Billing
Archer Daniels Midland	Oil Refining/Corn, Soybean Proc	226,502	\$341,098	219,927	\$348,282
Pine Ridge Farms	Manufactures Pork Products	120,436	\$205,599	133,983	\$242,188
Firestone Tire & Rubber Co.	Tire Manufacturing	121,409	\$376,275	111,183	\$368,150
Anderson Erickson Dairy	Dairy Products	80,543	\$140,971	84,156	\$155,962
Mid American Energy	Energy	41,966	\$69,194	67,773	\$119,016
WasteWater Treatment	WasteWater Treatment	60,914	\$104,552	63,008	\$114,425
Mercy Medical Center	Hospital	60,256	\$108,459	57,211	\$110,007
Titan Tire Corp.	Tire Manufacturing	67,803	\$120,405	53,231	\$102,520
Methodist Medical Center	Hospital	68,641	\$133,056	40,485	\$81,164
Cargill, Inc	Agriculture			36,587	\$68,887
Principal Financial Group	Finance	38,521	\$79,676		
Total of Largest Retail Users		886,991	\$1,679,285	867,544	\$1,710,602
System Total		14,441,825	\$45,592,311	14,297,623	\$47,987,441
Top Users as Percent of System Total		6.14%	3.68%	6.07%	3.56%

Appendix 4

Largest Wholesale Users
Ranked by Calendar Year 2015 Water Usage

User Name	Years Ending December 31			
	2014		2015	
	Thousands of Gallons	Water Billing	Thousands of Gallons	Water Billing
City of Ankeny	1,531,259	\$2,315,805	1,603,558	\$2,424,485
City of Urbandale	1,408,020	\$2,040,121	1,380,150	\$2,093,299
West Des Moines Water Works	739,987	\$1,080,122	735,723	\$1,152,520
City of Johnston	647,004	\$2,038,380	643,513	\$2,113,981
Xenia Rural Water District	702,184	\$923,856	605,397	\$919,375
City of Clive	576,119	\$838,420	569,259	\$867,092
Warren County Rural Water District	577,246	\$811,921	541,738	\$820,957
City of Waukee	395,120	\$573,675	428,483	\$651,488
City of Norwalk	238,146	\$345,440	242,310	\$368,031
City of Bondurant	150,695	\$274,599	146,304	\$223,245
<hr/>				
Total of Largest Wholesale Users	6,965,780	\$11,242,338	6,896,435	\$11,634,473
System Total	14,441,825	\$45,592,311	14,297,623	\$47,987,441
Top Users as Percent of System Total	48.23%	24.66%	48.23%	24.24%

Appendix 5

Historic Water Usage (1)

Calendar Year	Total Gallons (in 000's)	Gallons Billed (in 000's)		
		Inside City	Outside City	Total
2006	17,350,396	7,492,878	8,481,188	15,974,066
2007	17,282,110	7,493,482	8,003,977	15,497,459
2008	16,904,210	7,072,734	7,805,498	14,878,232
2009	16,603,730	6,643,207	8,066,423	14,709,630
2010	16,738,040	6,510,740	8,065,437	14,576,177
2011	16,981,160	6,615,312	8,552,271	15,167,583
2012	18,461,400	6,847,407	10,007,740	16,855,147
2013	17,568,132	6,531,927	9,202,116	15,734,043
2014	16,075,434	6,194,045	8,247,780	14,441,825
2015	15,798,081	6,074,557	8,223,066	14,297,623

(1) Source: Des Moines Water Works

Appendix 6

Daily Demand Statistics
(In million gallons per day)

	2013	2014	2015
Average Daily Demand	48.13	44.04	43.28
Maximum Daily Demand	87.43	73.26	68.53
Maximum Rated System Capacity	110.00	110.00	110.00

System User Rates (1)

<u>Service Classification</u>	<u>Water Rates Per 1,000 Gallons</u>				
	<u>Rates as of April 1, 2011</u>	<u>Rates as of April 1, 2012</u>	<u>Rates as of April 1, 2013</u>	<u>Rates as of April 1, 2014</u>	<u>Rates as of April 1, 2015</u>
Des Moines: Inside City					
Step 1 (Residential)	\$2.97	\$3.03	\$3.03	\$3.18	\$3.40
Step 2 (Commercial)	2.01	2.03	2.03	2.13	2.28
Step 3 (Industrial)	1.54	1.56	1.56	1.64	1.75
Des Moines: Outside City					
Step 1 (Residential)	3.26	3.29	3.29	3.45	3.69
Step 2 (Commercial)	2.47	2.47	2.47	2.59	2.77
Step 3 (Industrial)	1.76	1.76	1.76	1.85	1.98
Polk County					
Step 1 (Residential)	5.56	5.67	5.95	6.25	6.69
Step 2 (Commercial)	3.28	3.48	3.65	3.83	4.10
Step 3 (Industrial)	2.56	2.71	2.85	2.99	3.20
Windsor Heights	3.08	3.08	3.08	3.23	3.46
Pleasant Hill (2)					
Step 1 (Residential)	4.80	5.28	5.54	5.82	6.23
Step 2 (Commercial)	3.86	4.25	4.68	4.91	5.25
Pleasant Hill-Outside City	7.20	7.92	8.31	8.73	9.35
Political Subdivision (Wholesale)					
With Storage	3.05	3.05	3.05	3.17	3.33
Off-Peak Usage	1.58	1.58	1.58	1.64	1.72
Purchased Capacity	1.39	1.40	1.40	1.46	1.53
Warren County					
Step 1 (Residential)	9.66	10.63	11.16	11.72	12.54
Step 2 (Commercial)	7.10	7.81	8.20	8.61	9.21
Step 3 (Industrial)	0.00	0.00	0.00	0.00	0.00
Runnells (3)					
Water	4.82	5.01	5.01	5.52	5.91
Waste Water	5.12	5.43	5.43	5.99	6.41
Cumming (4)	4.69	4.92	4.92	5.43	5.81
Alleman (5)	5.18	5.59	5.59	6.16	6.59
PCRWD #1 (6)			4.00	4.00	4.00
Berwick (7)				4.00	4.00

(1) Source: Des Moines Water Works

(2) Pleasant Hill entered into a total service contract with Des Moines Water Works effective February, 2005.

(3) Runnells entered into a total service agreement in 2006.

(4) Cumming entered into a total service agreement February, 2007.

(5) Alleman entered into a total service agreement July, 2007.

(6) PCRWD # 1 entered in a total service agreement February, 2013

(7) Berwick entered in a total service agreement October, 2013

Appendix 8

**Water Works Outstanding Bonded Debt
(Principal Only)**

Fiscal Year Ended Dec. 31	Outstanding Note Series 2003	Outstanding Bonds Series 2011	Outstanding Bonds Series 2012A	Outstanding Bonds Series 2012B	Total Bonded Debt	Cumulative Amount	Percent of Total
2016	131,000	1,655,000	435,000	3,185,000	5,406,000	5,406,000	14.43%
2017	135,000	960,001	445,000	2,805,000	4,345,001	9,751,001	26.02%
2018	139,000	-	450,000	2,890,000	3,479,000	13,230,001	35.31%
2019	143,000	-	460,000	2,990,000	3,593,000	16,823,001	44.90%
2020	148,000	-	475,000	3,090,000	3,713,000	20,536,001	54.81%
2021	152,000	-	480,000	3,195,000	3,827,000	24,363,001	65.02%
2022	157,000	-	500,000	3,295,000	3,952,000	28,315,001	75.57%
2023	-	-	100,000	3,405,000	3,505,000	31,820,001	84.92%
2024	-	-		3,520,000	3,520,000	35,340,001	94.32%
2025	-	-		2,130,000	2,130,000	37,470,001	100.00%
2026	-	-			-	37,470,001	100.00%
Total	\$ 1,005,000	\$ 2,615,001	\$ 3,345,000	\$ 30,505,000	\$ 37,470,001		

Appendix 9

Water Works Outstanding Bonded Debt Service

Fiscal Year Ended Dec. 31	Debt Service Series 2003	Debt Service Series 2011	Debt Service Series 2012A	Debt Service Series 2012B	Total Bonded Debt Service
2016	161,150	1,716,150	502,125	4,100,150	6,479,575
2017	161,220	1,733,450	503,425	3,624,600	6,022,695
2018	161,170	988,801	499,525	3,625,450	5,274,946
2019	161,000	-	500,525	3,638,750	4,300,275
2020	161,710	-	506,325	3,649,050	4,317,085
2021	161,270	-	506,825	3,661,350	4,329,445
2022	161,710	-	512,128	3,665,500	4,339,338
2023	-	-	102,125	3,676,650	3,778,775
2024	-	-		3,689,500	3,689,500
2025	-	-		2,193,900	2,193,900
2026	-	-			-
Total	\$ 1,129,230	\$ 4,438,401	\$ 3,633,003	\$ 35,524,900	\$ 44,725,535

Historical Net Revenues and Debt Service Coverage

	Actual Fiscal Year 2011	Actual Fiscal Year 2012	Actual Fiscal Year 2013	Actual Fiscal Year 2014	Actual Fiscal Year 2015
Gross Operating Revenues	\$ 49,890,743	\$ 54,214,262	\$ 52,889,414	\$ 51,382,781	\$ 54,002,598
Operating Expenses (1)	38,162,428	41,751,334	43,067,895	46,322,165	49,628,430
Net Operating Revenues	\$ 11,728,315	\$ 12,462,928	\$ 9,821,519	\$ 5,060,616	\$ 4,374,168
Plus: Non-Operating Revenues (2)	(1,834,468)	(3,358,828)	(1,219,575)	(603,322)	(873,325)
Plus: Depreciation	7,311,994	8,037,059	7,978,139	8,218,775	8,845,042
Net Revenues Available for Debt Service	\$ 17,205,841	\$ 17,141,159	\$ 16,580,083	\$ 12,676,069	\$ 12,345,885
Maximum Annual Debt Service	\$ 6,494,910	\$ 6,492,335	\$ 6,492,335	\$ 6,492,335	\$ 6,479,575
Historical Debt Service Coverage (3)	2.65	2.64	2.55	1.95	1.91

(1) Includes depreciation.

(2) Interest earnings on invested moneys in funds established by Bond Resolution plus other miscellaneous revenue.

(3) Mandatory debt service coverage is 1.25 times debt service.

Des Moines Water Works

Financial Report
December 31, 2015

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Independent Auditor's Report

RSM US LLP

Board of Water Works Trustees
Des Moines Water Works
Des Moines, Iowa

Report on the Financial Statements

We have audited the accompanying financial statements of the business-type activities and fiduciary fund of the Des Moines Water Works (Water Works) as of and for the year ended December 31, 2015, and the related notes to the basic financial statements, which collectively comprise the Water Works' basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the business-type activities and the fiduciary fund of the Des Moines Water Works as of December 31, 2015, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matter

As explained in Note 5, the Water Works adopted GASB Statement No. 68, *Accounting and Financial Reporting for Pensions* and GASB Statement No. 71, *Pension Transition for Contributions Made Subsequent to the Measurement Date*, which restated beginning net position of the business-type activities to record the net pension liability and deferred outflows and inflows of resources. Our opinion is not modified with respect to this matter.

Other Matters*Required Supplementary Information*

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis on pages 3 through 8, other postemployment benefit plan schedules on page 43 and pension plan schedules on pages 44 through 48, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's response to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

RSM US LLP

Des Moines, Iowa
June 14, 2016

Des Moines Water Works

Management's Discussion and Analysis Year Ended December 31, 2015

Our Management's Discussion and Analysis (MD&A) of Des Moines Water Works' (Water Works) financial performance provides an overview of the utility's financial activities for the year ended December 31, 2015. Please consider this information in conjunction with the financial statements and the accompanying notes to basic financial statements that follow this section.

Overview of Business

The service area of the Water Works has expanded significantly since its emergence as a public water utility in 1919. In addition to serving customers within the City of Des Moines, Water Works provides wholesale water service based on long-term water contracts to surrounding municipalities and rural water districts, accounting for roughly 30 percent of total water revenues. This service area spans approximately 400 square miles, including most of Polk County and communities in eastern Dallas County and northern Warren County. The utility also provides billing and collection services on a contractual basis to wholesale customers and billing and collection services to the City of Des Moines for wastewater treatment, solid waste collection and the storm water utility.

As the utility's service area has expanded, so too has the need for water storage facilities, booster stations and additional treatment capacity to meet peak demand requirements. The most economical approach for the Water Works has involved utilizing these facilities to supply multiple customers. Contractual service users share in the cost of these joint-use facilities, which allows for meeting peak use demands and also allows some users to participate in lower off-peak or purchased capacity water rates. Financial participation in the construction of these facilities includes initial cash contributions or payments of debt service for the improvements and annual payments of operating and maintenance costs. Ownership of these facilities is maintained by the Water Works.

Water Works operates three surface-water treatment plants for the benefit of roughly 500,000 central Iowans. The source waters for these plants include the Raccoon River, the Des Moines River, and ground water sources that are under the direct influence of each of these rivers. Additionally, a number of off-river storage sites are used that allow water from the Raccoon River to be momentarily stored in ponds, lakes, and reservoirs. These sources are used to provide adequate supply to our customers in a manner that balances the factors of finished water quality, overall treatment expense, and regulatory compliance.

Governance of the Water Works is vested in a five-member Board appointed by the Mayor of the City of Des Moines with the approval of the City Council. Trustees serve for six-year staggered terms. The Board has complete control of Water Works' management and employs approximately 208 full-time and 15 part-time or seasonal employees.

The utility has adopted an annual activity-based budgeting methodology and performs an annual cost of service study to assist the Board in rate-setting policy.

Financial Highlights

- In 2015, operating revenues of \$54,002,598 increased 5.1 percent from 2014 while operating expenses increased by 7.14 percent to \$49,628,430 over 2014.
- During the year, Water Works had operating income of \$4,374,168 and change in net position of \$9,940,622.
- Water Works' net position increased as a result of operations. As of December 31, 2015, total assets were \$324,458,386; total liabilities were \$81,405,978; deferred outflows of resources were \$15,317,352, deferred inflows of resources were \$2,488,452; resulting in net position of \$255,881,308.

Des Moines Water Works

Management's Discussion and Analysis Year Ended December 31, 2015

Overview of the Financial Statements

Management's Discussion and Analysis (MD&A) serves as an introduction to the financial statements and the MD&A represents management's examination and analysis of the Water Works' financial condition and performance. The financial statements report information about the utility using full accrual accounting methods as utilized by similar entities in the private sector.

The statements of net position provides information about the Water Works' assets, deferred outflows, liabilities, deferred inflows and net position; thereby measuring the Water Works' liquidity and solvency. Liquidity is a measure of the utility's ability to meet current obligations (those due within one year). Solvency is a similar concept, but measures the ongoing ability to meet obligations over a longer term.

The statement of revenues, expenses and changes in net position presents the results of the Water Works' revenues and expenses over the course of the fiscal year and provides information about the utility's recovery of costs. Water rates are established by the Board of Trustees and are based on the utility's annual Cost of Service Study. The Cost of Service Study estimates annual revenue requirements through an analysis of operational and maintenance expenses, debt service requirements, anticipated capital needs and return on capital. The Study provides a core of information not only for the trustees and staff at Des Moines Water Works, but also for the customers ultimately affected by our decisions.

The statement of cash flows presents cash receipts, cash disbursements and net changes in cash resulting from operations, noncapital financing activities, capital and related financing and investing activities. This statement details where cash resources come from and how they are used.

The notes to basic financial statements provide required disclosures and other information that are essential to a full understanding of data provided in the statements. The notes supplement the basic financial statements by presenting information about the Water Works' accounting policies, significant account balances and activities, material risks, obligations, commitments and contingencies.

Condensed Financial Information

The following condensed financial information serves as key financial data and indicators for management, monitoring and planning.

Water Works implemented GASB Statement No. 68 for the year ended December 31, 2015. This required net position at the beginning of the year to be restated by \$3,179,659. The 2014 amounts presented in management's discussion and analysis have not been restated for this GASB implementation.

Des Moines Water Works

Management's Discussion and Analysis Year Ended December 31, 2015

Condensed Statement of Net Position Information

	2015 (as restated)	2014 (not restated)	% Change 2014 to 2015
Current assets	\$ 14,746,563	\$ 12,020,787	22.68%
Capital assets, net	296,743,696	282,879,662	4.90
Other noncurrent assets	12,968,127	22,654,530	(42.76)
Total assets	324,458,386	317,554,979	2.17
Deferred outflow of resources	15,317,352	2,352,487	551.11
Current liabilities	17,665,290	17,131,218	3.12
Other noncurrent liabilities	29,591,655	13,720,198	115.68
Long-term debt, net	34,149,033	39,935,705	(14.49)
Total liabilities	81,405,978	70,787,121	15.00
Deferred inflows of resources	2,488,452	-	
Net investment in capital assets	259,124,418	240,064,444	7.94
Restricted	7,934,076	15,013,794	(47.15)
Unrestricted	(11,177,186)	(5,957,893)	87.60
Total net position	\$ 255,881,308	\$ 249,120,345	2.71

Condensed Revenues, Expenses and Changes in Net Position

	2015 (as restated)	2014 (not restated)	% Change 2014 to 2015
Water sales	\$ 47,987,441	\$ 45,592,311	5.25%
Billing and collection services	1,442,948	1,340,939	7.61
Connection fees	1,002,826	638,637	57.03
Purchased capacity	1,265,277	1,276,299	(0.86)
Other sales and services	2,304,106	2,534,595	(9.09)
Total operating revenues	54,002,598	51,382,781	5.10
Investment income	34,370	487,631	(92.95)
Other	224,743	199,318	12.76
Capital contributions	6,439,779	4,009,473	60.61
Gain (loss) on sale of fixed assets	36,000	7,166	402.37
Total revenues	60,737,490	56,086,369	8.29
Labor and benefits	22,173,453	19,195,280	15.52
Chemicals and power	4,637,527	4,254,259	9.01
Utilities	2,536,021	2,714,512	(6.58)
Corporate Insurance	1,595,736	764,890	108.62
Purchased services	5,893,788	7,282,994	(19.07)
Materials, supplies and equipment	3,557,085	3,474,926	2.36
Depreciation	8,845,042	8,218,775	7.62
Other	389,778	416,529	(6.42)
Total operating expenses	49,628,430	46,322,165	7.14
Interest expense	1,168,438	1,297,437	(9.94)
Total expenses	50,796,868	47,619,602	6.67
Change in net position	9,940,622	8,466,767	17.41
Net position, beginning of year	245,940,686	240,653,578	2.20
Net position, end of year	\$ 255,881,308	\$ 249,120,345	2.71

Des Moines Water Works

Management's Discussion and Analysis Year Ended December 31, 2015

Financial Analysis

Year ended December 31, 2015: Current assets increased 22.68 percent. This is primarily due to receivables from wholesale customers for capital projects being built by DMWW. The first project is an ASR well, well pump, well house and piping being built in the southwestern part of our service area. This will serve the City of West Des Moines and is fully funded by the City of West Des Moines and West Des Moines Water Works. The second project is a joint project with the City of Johnston to design and construct a feeder main from the Saylorville Water Treatment Plant to increase flow to customers in the City of Johnston.

Other lines in the current assets section include cash, accounts receivable, inventory, and prepaid expenses. These accounts fluctuate from year to year and have fairly minor changes from 2014 to 2015.

Other noncurrent assets decreased 42.76 percent. Purchased capacity funds were drawn down to reimburse the Water Works for projects benefitting the core network. Additionally, operating reserves were reduced because of a revenue shortfall due to lower than budgeted consumption in 2015.

Deferred outflows of resources increased nearly \$13,000,000. Water Works implemented GASB Statement No. 68 for the year ended December 31, 2015. This requires recognizing deferred outflows/inflows of resources for pension plans. The deferred outflows show the effects of actuarial differences, changes in assumptions, and differences between actual and projected earnings on plan investments. For the DMWW Pension Plan, the net deferred outflows of resources booked in 2015 is nearly \$3,300,000. For IPERS, the balance as of December 31, 2015 is approximately \$10,100,000. Offsetting the increase in deferred pension outflows is the amortization of the difference between the reacquisition price and the net carrying amount of the 2006 bonds which were advanced refunded in 2012.

Current liabilities increased 3.12 percent. The primary drivers are the increase in construction payables at the end of the year along with a reserve being established for workers' compensation claims. Offsetting the increases is a lower balance in accounts payable as of December 31, 2015 which is merely due to timing of invoice receipts and issuing payable checks. The balance in accounts payable can vary widely based on the timing of payments at the end of the year.

Noncurrent liabilities increased nearly \$16,000,000. Another requirement of GASB Statement No. 68 is recognizing a net pension liability for the difference between the total pension liability and fiduciary net position. The net pension liability booked for the DMWW Pension Plan is approximately \$5,600,000 while the net pension liability for IPERS is approximately \$10,700,000. Other noncurrent liabilities include unearned revenue being amortized over a period of 10 to 20 years and the liability for other postretirement benefits. This shows the liability for providing health care benefits to retirees of Des Moines Water Works.

Long-term debt decreased 14.49 percent in 2015 due to the reclassification of \$5,406,000 of the scheduled 2016 debt service payments to short-term liabilities.

Deferred inflows of resources is a new line on the Water Works' financial statements in 2015 due to the implementation of GASB Statement No. 68. This requires recognizing deferred outflows/inflows of resources for pension plans. The deferred inflows show the effects of actuarial differences, changes in assumptions, and differences between actual and projected earnings on plan investments. For December 31, 2015, the amount is nearly \$2,500,000 relating to IPERS.

Water sales were up 5.25 percent in 2015. Consumption was relatively flat compared to 2014 but the moderate rate increase in 2015 contributed to the overall increase in sales revenue.

Des Moines Water Works

Management's Discussion and Analysis Year Ended December 31, 2015

Revenue for billing and collection services was up 7.61 percent due to changing the methodology for billing and collecting for City of Des Moines' services. It is now based on a percentage of collections rather than a per bill fee.

Connection fees were up 57.03 percent compared to 2014. These fees can fluctuate widely from year to year depending on the level of development experienced within the utility's service areas.

Purchased capacity revenues were flat compared to 2014. This represents the continued amortization of unearned revenue. This unearned revenue represents cash contributions to fund the water treatment plant located in the north part of the service area and previous years' cash contributions from wholesale customers to fund the L.D. McMullen Water Treatment Facility and to increase capacity in the overall core network. Financial participation in the construction of the plants allows users to participate in lower purchased capacity water rates. Unearned revenue balances are amortized to purchase capacity revenue over the length of the contract, generally 10 to 20 years.

Revenue from other sales and services decreased 9.09 percent in 2015. Included in this line are numerous revenue items in the utility including reconnect fees, credit card convenience fees, stop box repairs, distribution system repairs, operating and maintenance costs for shared-use facilities, lab testing, etc.

Operating labor and benefits increased 15.52 percent. There were modest increases due to wage rate increases and increased expenses for employer paid medical insurance premiums. The biggest driver of the increase is related to implementing GASB Statement No. 68 to not only recognize contributions to the DMWW pension plan and IPERS but includes expenses for amortizing the net effect of change in proportion and differences between entity contributions and proportionate share of contributions.

Chemical expenses were up 9.01 percent in 2015. Chemical prices saw modest increases while continued raw water quality and treatment plant allocations adversely affected costs as well.

Utilities expense is down 6.58 percent from 2014. Energy costs for the three treatment plants were the biggest driver of the decrease.

Corporate insurance increased \$800,000. This increase is related to workers' compensation claims paid in 2015 as well as setting up a reserve for future expenses on existing claims. The Water works became self-insured for workers' compensation insurance in 2014 and also maintains a stop loss policy for workers compensation claims over \$500,000.

Purchased services decreased by 19.07 percent compared to 2014. This equates to nearly \$1.4 million. The main driver of this decrease is the lime residual removal at the McMullen Treatment Plant. Water Works changed contractors in 2015 and also the timing of payments to the contractor. At the McMullen Treatment Plant, the contractor moves the residuals to a holding area and then is paid once the residuals are applied offsite by end-users. Additionally, the number of main breaks in 2015 was low compared to a record high year in 2014. The need for contractors to repair main breaks and restore street holes was not needed in 2015 as it was in 2014. Offsetting these decreases to purchased services is an increase for legal fees relating to the nitrate lawsuit.

Materials, supplies and equipment increased by 2.36 percent. This includes items such as postage, inventory items and repair parts for the maintenance of the treatment facilities, distribution system and fleet vehicles.

Other expenses decreased 6.42 percent. This includes costs for casualty losses from damages due to main breaks, bad debt write-off, and utility-wide training.

Des Moines Water Works

Management's Discussion and Analysis Year Ended December 31, 2015

Investment income decreased \$453,000. This not only includes investment income, but also accounts for the unrealized gain/loss and truing up of accrued interest. In 2014, Water Works recognized interest received from the City of Altoona for their share of the joint eastside tower project.

Interest expense decreased nearly 10 percent due to decreasing interest payments on outstanding debt.

Capital contributions were \$6.4 million in 2015. This is an increase of \$2.4 million over 2014. Water Works recognized \$1.9 million from the City of West Des Moines and West Des Moines Water Works for the ASR well being built for the benefit of West Des Moines. Contributions of \$1.2 million from the City of Johnston were recognized for their portion of the joint feeder main project from the Saylorville Water Treatment Plant. And finally, \$3.1 million was recognized for water mains conveyed by contractors for new development in the Water Works' service areas. These contributions can fluctuate widely from year to year.

The aforementioned fluctuations result in an overall increase in net position of 4.04 percent, the result of a 5.10 percent increase in operating revenues and an increase in operating expenses of 3.88 percent.

Capital Assets and Debt Administration

During 2015, net capital assets increased \$13,864,034 or 4.90 percent. In addition to replacing deteriorating water mains, the utility continues to reinvest in water treatment, production, storage and capacity. There were no significant changes to the condition of infrastructure assets, nor were there any changes made to standard service lives of those assets.

Water Works' long-term debt was \$34,149,033 as of December 31, 2015. The decrease of \$5.8 million is due to scheduled principal payments.

Economic Factors

Due to the Water Works' large concentration of residential customers, weather impacts revenue to a greater degree than do economic cycles. Water Works budgets revenues and expenses based on anticipated consumption for a "normal" weather year. Most service areas received a modest water rate increase in 2015.

Requests for Information

If the reader has questions or would like additional information, please direct the request to: Peggy Freese, Chief Financial Officer, 2201 George Flagg Parkway, Des Moines, Iowa 50321-1190.

Des Moines Water Works

Statement of Net Position December 31, 2015

Assets

Current assets:

Cash	\$ 2,669,230
Restricted assets, cash	606,667
Accounts receivable:	
Billed	3,933,455
Unbilled	1,621,854
Due from other governments	2,223,629
Other receivables	191,593
Inventory, materials and supplies	2,464,092
Prepaid expenses	1,036,043
Total current assets	14,746,563

Restricted assets, cash and investments:

Cash	1,957,143
Water revenue bond reserve fund	5,376,933
Water revenue bond improvement fund	600,000
	7,934,076

Long-term investments:

Investment in land	624,562
Board designated funds, investments	4,177,658
	4,802,220

Capital assets:

Land	7,332,427
Construction-in-progress	10,952,276
Buildings, equipment and machinery	177,634,732
Supply system	54,829,851
Distribution system	209,698,918
	460,448,204
Accumulated depreciation	(163,704,508)
Capital assets, net	296,743,696

Other assets

Total assets

231,831
324,458,386

Deferred Outflow of Resources

Deferred charge on refunding	1,956,778
Pension related amounts	13,360,574
	15,317,352

See notes to basic financial statements.

Liabilities**Current liabilities:**

Accounts payable	\$ 1,426,331
Accrued wages and benefits	814,142
Compensated absences	2,494,986
Unearned revenue	867,852
Special deposits	1,488,912
Construction payables	3,932,609
Water revenue bonds interest payable	90,069
Current portion of long-term debt, net	5,427,023
Fees collected for other entities	606,667
Workers' compensation claims payable	516,699
Total current liabilities	17,665,290

Noncurrent liabilities:

Long-term debt, net, less current installments	34,149,033
Compensated absences, less current portion	880,466
Unearned revenue	6,039,031
Net pension liability	16,313,350
Other postemployment benefits liability	6,358,808
Total noncurrent liabilities	63,740,688

Total liabilities	81,405,978
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Deferred inflows of resources , pension related amounts	2,488,452
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Net position:

Net investment in capital assets	259,124,418
Restricted (bond indentures)	7,934,076
Unrestricted (deficit)	(11,177,186)
Total net position	255,881,308

Total liabilities, deferred inflows of resources and net position	\$ 339,775,738
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Des Moines Water Works

Statement of Revenues, Expenses and Changes in Net Position Year Ended December 31, 2015

Operating revenues:	
Water sales	\$ 49,252,718
Other sales and services	3,747,054
Connection fees	1,002,826
Total operating revenues	54,002,598
Operating expenses:	
Labor	13,360,514
Group insurance	2,585,702
Retirement benefits (including social security)	6,227,237
Purchased services	5,893,788
Corporate insurance	1,595,736
Materials, supplies and equipment	3,557,085
Chemicals	4,637,527
Utilities	2,536,021
Depreciation	8,845,042
Other	389,778
Total operating expenses	49,628,430
Operating income	4,374,168
Nonoperating revenue (expense):	
Investment income	34,370
Interest and amortization expense	(1,168,438)
Land use income	222,660
Gain on sale of capital assets	36,000
Other	2,083
Total nonoperating (expense), net	(873,325)
Income before capital contributions	3,500,843
Capital contributions	6,439,779
Change in net position	9,940,622
Net position, beginning of year, as restated	245,940,686
Net position, end of year	\$ 255,881,308

See notes to basic financial statements.

Des Moines Water Works

Statement of Cash Flows
Year Ended December 31, 2015

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Cash flows from operating activities:	
Cash received from customers	\$ 52,542,778
Cash paid to suppliers	(19,466,265)
Cash paid to employees and for payroll taxes	(19,366,323)
Net cash provided by operating activities	<u>13,710,190</u>
Cash flows from capital and related financing activities:	
Principal payments on long-term debt	(5,273,360)
Acquisition, construction and removal cost of capital assets	(18,158,529)
Contributions received	1,264,438
Interest paid	(1,232,898)
Net cash used in capital and related financing activities	<u>(23,400,349)</u>
Cash flows from investing activities:	
Proceeds from maturities of investments	18,564,705
Purchase of investments	(9,769,916)
Interest received	200,983
Land use income and other	224,743
Net cash provided by investing activities	<u>9,220,515</u>
Net (decrease) in cash	(469,644)
Cash, beginning of year	<u>5,702,684</u>
Cash, end of year	<u><u>\$ 5,233,040</u></u>
Reconciliation of cash to the statements of net position:	
Cash	\$ 2,669,230
Restricted assets, cash current	606,667
Restricted assets, cash long term	1,957,143
Total cash, end of year	<u><u>\$ 5,233,040</u></u>

(Continued)

Des Moines Water Works

Statement of Cash Flows (Continued) Year Ended December 31, 2015

Reconciliation of operating income to net cash provided by operating activities:	
Operating income	\$ 4,374,168
Adjustments to reconcile operating income to net cash provided by operating activities:	
Depreciation	8,845,042
Change in:	
Accounts receivable, billed	(171,913)
Accounts receivable, unbilled	(21,657)
Other receivables	139,069
Inventory, materials and supplies	(253,823)
Prepaid expenses	(119,280)
Other assets	17,311
Accounts payable	(999,925)
Accrued wages and benefits and compensated absences	93,815
Pension related amounts	2,178,232
Other postemployment benefit liability	535,082
Unearned revenue	(1,417,768)
Special deposits	149,422
Fees collected for other entities	(154,284)
Other liabilities	516,699
Net cash provided by operating activities	\$ 13,710,190
Schedules of noncash capital and related financing activities:	
Acquisition of capital assets through conveyance of mains	\$ 3,115,216
Acquisition of capital assets through construction payables	\$ 1,270,068
Trade-in value towards assets purchased	\$ 36,000
Acquisition of capital assets through capital lease	\$ 129,265
Schedule of noncash investing activities, net depreciation of the fair value of investments	\$ 1,895

See notes to basic financial statements.

**Des Moines Water Works
Pension Plan**

**Statement of Plan Net Position
December 31, 2015**

Assets

Investments, contracts with insurance companies, pooled separate accounts	\$ 48,124,260
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Liabilities

-

Net position held in trust for pension benefits

\$ 48,124,260

See notes to basic financial statements.

**Des Moines Water Works
Pension Plan**

**Statement of Changes in Plan Net Position
Year Ended December 31, 2015**

Additions:

Investment income (loss), net appreciation (depreciation) in the fair value of pooled separate accounts, interest and dividends	\$ (607,906)
Employer contributions	<u>911,175</u>
Total additions	<u>303,269</u>

Deductions:

Benefit payments	2,826,683
Administrative expenses	<u>26,767</u>
Total deductions	<u>2,853,450</u>

Net decrease	(2,550,181)
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Net position held in trust for pension benefits:

Beginning of year	<u>50,674,441</u>
End of year	<u><u>\$ 48,124,260</u></u>

See notes to basic financial statements.

Des Moines Water Works

Notes to Basic Financial Statements

Note 1. Nature of Business, Reporting Entity and Significant Accounting Policies

Nature of business: Des Moines Water Works (Water Works) is managed and controlled by the Board of Water Works Trustees of the City of Des Moines, Iowa (the Board), which exists under the provisions of Chapter 388 and other relevant statutes of the Code of Iowa. The five-member Board is appointed by the Mayor of Des Moines with the approval of the City Council. Trustees serve for six-year staggered terms.

Water Works is exempt from federal income tax pursuant to Internal Revenue Code Section 115 which provides for exemption of divisions of state and local governments.

Water Works provides water and other services to retail and wholesale customers in the City of Des Moines (the City) and surrounding communities.

Reporting entity: Accounting principles generally accepted in the United States of America require the reporting entity include (1) the primary government, (2) organizations for which the primary government is financially accountable and (3) other organizations for which the nature and significance of their relationship with the primary government are such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete. The Water Works has authority to issue bonded debt without the approval of another government. It has the right to sue and be sued, and has the right to buy, sell, lease or mortgage property in its own name. Based on these criteria, the Water Works is considered a primary government and there are no other organizations or agencies whose financial statements should be combined and presented with these financial statements.

Significant accounting policies:

Basis of accounting and measurement focus: The Water Works accounts for its activities as an enterprise fund. The economic measurement focus and the accrual basis of accounting are used by the Water Works. Under the accrual basis of accounting, revenue is recognized when earned and expenses are recognized when the liability has been incurred. Under this basis of accounting, all assets and deferred outflows and all liabilities and deferred inflows associated with the operation of the Water Works are included in the statement of net position.

The financial statements of the Water Works are prepared in accordance with generally accepted accounting principles (GAAP) as applied to governmental units. The Government Accounting Standards Board (GASB) is the standard-setting body for governmental accounting and financial reporting. The GASB periodically updates its codification of the existing Governmental Accounting and Financial Reporting Standards, which, along with subsequent GASB pronouncements (Statements and Interpretations), constitutes GAAP for governmental units.

Accounting estimates: The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts reported on the financial statements and accompanying notes. Actual results could differ from those estimates.

Cash and investments: For the purpose of the statement of cash flows, Water Works considers cash balances maintained in demand deposit accounts at financial institutions to be cash. Excess cash invested temporarily in financial institutions is considered an investing activity and is not considered to be cash.

Investments as of December 31, 2015 were in U.S. government or agency obligations and are stated at fair value, based on quoted market prices.

Des Moines Water Works

Notes to Basic Financial Statements

Note 1. Nature of Business, Reporting Entity and Significant Accounting Policies (Continued)

Revenue recognition: Customers served by Water Works are billed on a monthly cyclical basis based on usage. Water Works accrues estimated unbilled water revenues for services rendered from the last billing date through year-end.

Operating revenues and expenses: Operating revenues include revenues resulting from the sale of water and related services. Revenues from the sale of water are based on billing rates, which are applied to customers' consumption of water. Operating expenses include expenses for water treatment, distribution, depreciation, customer service and sales, administrative and general. Nonoperating revenues and expenses include those derived from capital and related financing activities, noncapital financing activities and investing activities.

Capital contributions: Water Works receives capital contributions under cost sharing arrangements made with area municipalities for capital projects and infrastructure improvements to the water system. These arrangements are formalized in 28E agreements executed and approved the Board of Water Works Trustees. Revenue is recorded for the shared portion of the costs as progress on the related projects is completed. Water Works also receives capital contributions when real estate developers convey constructed water mains. The mains are conveyed by the contractor who constructed them and are approved by the Board of Water Works Trustees. The Water Works records revenue upon conveyance of the mains at their estimated fair value, based on the cost it would have incurred to construct them internally.

Transactions with the City of Des Moines: Water Works provides water service to the City without charge except for the Sewage Treatment Works, Des Moines International Airport and City golf courses. The value (computed at the commercial rate) of the service provided without charge was \$761,406 in 2015.

Water Works has an agreement to pay the City a Payment in Lieu of Taxes (PILOT). This amount was calculated in 2009 by applying the City millage rate for police and fire to the value of buildings and land operated and controlled by Water Works located within the City at that time. The total PILOT payment was \$755,340 in 2015.

Billings and collection agent services: Water Works serves as the billing and collection agent for fees related to sewage treatment, solid waste and storm water collection for certain political subdivisions (including the City). Separate accounting records are maintained by Water Works for these collection services. Fees collected not yet remitted by Water Works to the applicable entities totaled \$606,667 as of December 31, 2015. These fees have been reflected in Water Works' statement of net position and were remitted to the City, other political subdivisions and third party provider of the Water Works' service line protection program subsequent to year-end. Processing fees billed to those entities for billing and collection services provided by Water Works totaled approximately \$1,443,000 in 2015. The City's fees reflect only the incremental expenses incurred by Water Works to bill and collect the City's charges, rather than an equal sharing of the costs. Water Works bears the total cost of meter reading, cash processing and statement preparation and mailing.

Inventories: Inventories are stated at the lower of average cost or market. The costs of these materials and supplies are recorded as an expense at the time they are relieved from inventory for use.

Des Moines Water Works

Notes to Basic Financial Statements

Note 1. Nature of Business, Reporting Entity and Significant Accounting Policies (Continued)

Board designated funds: These assets are reserves held for any contingencies.

Restricted assets, cash and investments: Water Works is required, under the water revenue bond resolutions, to reserve certain assets to provide for payment of the bonds and interest for protection of the bondholders, and for the improvement and extension of facilities. Disbursement of these assets is restricted by the purpose of the respective funds.

Capital assets: Capital assets are recorded at cost and depreciated utilizing the straight-line method over estimated useful lives as follows:

Buildings, equipment and machinery	3-85 years
Supply system	20-85 years
Distribution system	10-85 years

Expenditures for maintenance, repairs and minor replacements are charged to operations. Expenditures for major repairs and betterments are capitalized. Water Works' capitalization threshold is \$1,000. When capital assets are retired or otherwise disposed, the cost and related accumulated depreciation are removed from the accounts and any resulting gains or losses are included in the statement of revenues, expenses and changes in net position. Included in capital assets are the interest capitalized during construction in accordance with accounting principles generally accepted in the United States of America. No capitalized interest was recorded in 2015.

Net position: Net position represents the difference between assets and deferred outflows of resources and liabilities and deferred inflows of resources in the financial statements. Net investment in capital assets, consists of capital assets, net of accumulated depreciation, reduced by the outstanding balance of any long-term debt used for acquisition, construction, or improvement of those assets and increased by deferred outflows of resources for deferred charges on refundings and unspent bond proceeds. Net position is reported as restricted when there are limitations imposed on its use through external restrictions imposed by creditors, grantors, or laws or regulations of other governments. As of December 31, 2015, Water Works did not have unspent bond proceeds.

The Water Works' policy is to first apply restricted resources when an expense is incurred for purposes for which both restricted and unrestricted net position is available.

Rates: The Board has full authority to establish rates. As part of the rate-setting process, Water Works performs an annual Cost of Service Study to determine the cost of operations. This Study is based on a standard water industry model. Based upon the Study, rates are set to fund future operations. Costs related to operations and maintenance, depreciation based on estimated replacement cost of capital assets (which differs from depreciation expense recorded for financial reporting purposes), debt service and return on capital are factored into the rate design as well as demand factors from various customer classes.

Des Moines Water Works

Notes to Basic Financial Statements

Note 1. Nature of Business, Reporting Entity and Significant Accounting Policies (Continued)

Unearned revenue: During 1996 and years subsequent, Water Works entered into contractual agreements with other political subdivisions to sell treatment capacity to these entities. In exchange for purchasing these amounts of capacity, the political subdivisions will be able to purchase water at a lower wholesale water rate. Purchasers were offered the option of cash payment or participating in issues of water revenue bonds. For entities choosing to pay cash in advance, Water Works records these amounts as unearned revenue and amortizes the amounts into income over periods of 10 to 20 years. For entities participating in the bond issues, Water Works recognizes this revenue on a monthly basis as the entities are billed and as the principal and interest payments become due on the bonds. As of December 31, 2015, Water Works had \$6,906,883 of unearned revenue relating to contractual agreements and has recognized \$1,417,768 of revenue during 2015.

Compensated absences: Vacation and personal leave are accrued as a liability as it is earned. Sick leave benefits do not vest; however, upon retirement, an employee may receive pay for 90 percent of his or her accumulated sick leave up to a maximum of 810 hours. The maximum payable to employees who are eligible for retirement has been recorded as a liability as well as an estimate for employees who are probable of becoming eligible in the future.

Bond premiums and discounts: Bond premiums and discounts are deferred and amortized over the terms of the related bonds utilizing a method which approximates the effective interest method. Debt issuance costs are recognized when incurred.

Pensions: The net pension liability, deferred outflows and inflows of resources related to pensions, pension expense, information about the fiduciary net position of the Iowa Public Employees Retirement System (IPERS) and the Des Moines Water Works Pension Plan and additions to/deductions from these fiduciary net positions have been determined on the same basis as they are reported by IPERS and the Des Moines Water Works Pension Plan. For this purpose, benefit payments (including refunds of employee contributions) are recognized when due and payable in accordance with the benefit terms. Investments are reported at fair value.

Deferred outflow of resources: In addition to assets, the statement of net position will sometimes report a separate section for deferred outflows of resources. This separate financial statement element represents a consumption of net position that applies to future periods(s) and so will not be recognized as an outflow of resources (expense) until then. The deferred charge on refunding reported in the statement of net position qualifies for reporting in this category. A deferred charge on refunding results from the difference in the carrying value of refunded debt and its reacquisition price. This amount is deferred and amortized over the shorter of the life of the refunded or refunding debt. Deferred outflows of resources for pension related amounts consist of unrecognized items not yet charged to pension expense and contributions from Water Works after the measurement date but before the end of Water Works' reporting period.

Deferred inflows of resources: Deferred inflows of resources represent an acquisition of net position that applies to a future period(s) and will not be recognized as an inflow of resources (revenue) until that time. Although certain revenues are measurable, they are not available. Available means collected in the current year or expected to be collected soon enough thereafter to be used to pay liabilities of the current year. The statement of net position includes pension related amounts as a deferred inflow of resources. The pension related amounts consist of the unamortized portion of the net difference between projected and actual earnings on pension plan investments.

Des Moines Water Works

Notes to Basic Financial Statements

Note 1. Nature of Business, Reporting Entity and Significant Accounting Policies (Continued)

Fiduciary fund type: The Water Works also includes a pension trust fund, fiduciary fund type. Pension trust funds are accounted for in essentially the same manner as the enterprise fund, using the same measurement focus and basis of accounting. Plan member contributions are recognized in the period in which contributions are due. Employer contributions to the plan are recognized when due and the employer has made a formal commitment to provide the contributions. Benefits and refunds are recognized when due and payable in accordance with the terms of the plan. The Pension Trust Fund accounts for the assets of the Des Moines Water Works Pension Plan. This plan is included in the reporting entity due to the Water Works' significant administrative involvement and due to the Board of the Plan consisting of the Water Works' Board members.

Note 2. Cash and Investments

The Governmental Accounting Standards Board (GASB) Statement No. 40, *Deposit and Investment Risk Disclosures*, requires state and local governments to disclose certain risks. The disclosures required by GASB Statement No. 40 provide readers with information concerning the credit and interest risks associated with the Water Works' deposits and investments.

Authorized investments: Water Works is authorized to invest in obligations of the US government, its agencies and instrumentalities; certificates of deposit at federally insured Iowa depository institutions approved by the Code of Iowa, Chapter 12C; and repurchase agreements if the underlying collateral consists of obligations of the US government, its agencies and instrumentalities. The Water Works' investment policy prohibits investments in reverse repurchase agreements and futures and options contracts. In addition, investing pursuant to the following investment practices is prohibited: trading of securities for speculation of the realization of short-term trading gains; a contract providing for the compensation of an agent or fiduciary based upon the performance of the invested assets; or if a fiduciary or third party has failed to produce requested records within a reasonable time.

Interest rate risk: Interest rate risk is the risk that changes in market interest rates will adversely affect the fair value of an investment. Generally, the longer the maturity of an investment, the greater the sensitivity of its fair value to changes in market interest rates. In an effort to limit exposure to fair value losses arising from interest rate risk, the Water Works' investment policy places maturity limitations on both operating funds and nonoperating funds. Operating funds are defined as those that are reasonably expected to be expended during the current budget year or within 15 months. Operating funds may only be invested in authorized instruments that mature within 397 days. Funds not identified as operating may be invested in investments with maturities longer than 397 days, but less than 1,726 days. All investments, however, shall have maturities that are consistent with the needs and uses of the Water Works.

Des Moines Water Works

Notes to Basic Financial Statements

Note 2. Cash and Investments (Continued)

Information about the sensitivity of the fair value of the Water Works' investments to market interest rate fluctuations is provided by the tables below for December 31, 2015:

Type	Fair Value December 31, 2015	Within 3 Months	Within 6 Months	Within 9 Months	Within 12 Months	Over 12 Months
Federal Home Loan Bank	\$ 3,334,353	\$ 1,000,010	\$ 803,848	\$ 1,530,495	\$ -	\$ -
Federal Home Loan Mortgage Corp.	2,197,847	-	646,937	-	1,550,910	-
Federal National Mortgage Assoc.	2,594,341	-	467,409	1,323,220	803,712	-
Federal Farm Credit Bank	2,028,050	999,980	-	1,028,070	-	-
	<u>\$ 10,154,591</u>	<u>\$ 1,999,990</u>	<u>\$ 1,918,194</u>	<u>\$ 3,881,785</u>	<u>\$ 2,354,622</u>	<u>\$ -</u>

The Water Works also has an investment in land purchased with the intent to sell; however, no commitment for sale existed as of December 31, 2015. The land is recorded at the lower of cost or fair value at \$624,562 as of December 31, 2015.

Credit risk: Generally, credit risk is the risk that an issuer of an investment will not fulfill its obligation to the holder of the investment. This is measured by the assignment of a rating by a nationally recognized statistical rating organization. The Water Works' investment policy does not formally address credit risk.

As of December 31, 2015, the Water Works' investments were rated as follows:

Type	S&P Rating	Moody's Rating
Federal Home Loan Bank	AA+	Aaa
Federal Home Loan Mortgage Corp.	AA+	Aaa
Federal National Mortgage Assoc.	AA+	Aaa
Federal Farm Credit Bank	AA+	N/A

Concentration of credit risk: The policy defines diversification requirements for the Water Works' investments. Invested assets shall be diversified to eliminate the risk of loss resulting from over concentration of assets in a specific maturity, a specific issuer or a specific class of security. Portfolio maturities shall be staggered in a way that avoids undue concentration of assets in a specific maturity sector. Liquidity practices shall be followed to ensure that funds required for the next disbursement date and next payroll date are covered through maturity investments, marketable US Treasury bills or cash on hand. Risks of market price volatility shall be controlled through maturity diversification so that aggregate price losses on investments with maturities approaching one year shall not be greater than coupon interest and investment income received from the balance of the portfolio.

Des Moines Water Works

Notes to Basic Financial Statements

Note 2. Cash and Investments (Continued)

More than 5 percent of the Water Works' investments are in the following investments as of December 31, 2015:

Type	
Federal Home Loan Bank	32.84%
Federal Home Loan Mortgage Corp.	21.64
Federal National Mortgage Assoc.	25.55
Federal Farm Credit Bank	19.97

The Water Works' investments during the year did not vary substantially from those at year-end in amounts or level or risk.

Custodial credit risk: The custodial credit risk for deposits and investments is the risk that, in the event of the failure of a depository financial institution or counterparty (for example, broker-dealer) to a transaction, a government will not be able to recover deposits or will not be able to recover collateral securities or the value of investments that are in the possession of an outside party. Deposits in financial institutions as of December 31, 2015 and throughout the year are covered by federal depository insurance or the State Sinking Fund in accordance with Chapter 12C, Code of Iowa. This Chapter provides additional assessments against the depositories to ensure there is no loss of public funds. Water Works' bank balances and book balances of deposits were \$5,674,958 and \$5,233,040, respectively, as of December 31, 2015. Water Works' investments were not exposed to custodial credit risk as of December 31, 2015.

Pension Plan Deposits and Investments

Deposits: As of December 31, 2015, the Plan held no deposits.

Investments: The Plan's investments in pooled separate accounts are stated at fair value based on quoted market prices of the investments held in each account as determined by Principal Life Insurance Company (Principal). Purchases and sales of securities are recorded on a trade date basis. Dividends are recorded on the ex-dividend date. Net appreciation (depreciation) includes the Plan's gains and losses on investments bought and sold, as well as, held during the year.

Des Moines Water Works

Notes to Basic Financial Statements

Note 2. Cash and Investments (Continued)

Asset allocation strategy: The Des Moines Water Works Pension Plan's named fiduciary asset allocation strategy shall identify target allocations to eligible asset classes and, where appropriate, suitable ranges within which each asset class can fluctuate as a percent of the total fund. Each asset class is to remain suitably invested at all times in either cash (or cash equivalents) or permitted securities within each class. The assets classes may be rebalanced from time to time to take advantage of tactical misvaluations across major asset classes or investment styles, or to align the current asset mix with strategic targets. The target allocations and long-term expected arithmetic and geometric rates of return for each major asset class are as follows:

Asset Class	Target Allocation	Expected Arithmetic Return	Expected Geometric Return
U.S. Equity - Large Cap	33%	8.80%	7.45%
U.S. Equity - Mid Cap	3	9.10	7.45
U.S. Equity - Small Cap	3	9.55	7.45
Non - U.S. Equity	9	9.20	7.45
REITs	1	8.35	6.55
Real Estate (direct property)	6	6.30	5.95
TIPS	1	4.10	3.90
Core Bond	39	4.25	4.15
High Yield	5	6.30	5.90

Authorized investments: The Des Moines Water Works Pension Plan's investment policy permits the named fiduciary to consider all asset classes allowed by Employee Retirement Income Security Act of 1974 (ERISA) as acceptable investment options and to select one or more customized investment portfolios and retain an investment manager to manage the assets of each such portfolio. The following assets classes are permitted for Plan investment options: Stable Value, Domestic Fixed Income, International or Foreign Fixed Income, Real Estate, Domestic Stock, International or Foreign Stock and Balanced/Asset allocation.

GASB Statement No. 40 requires plan investments to disclose an indication of the level of credit risk, concentration of credit risk and interest rate risk assumed by the Plan. These risk disclosures only pertain to fixed income investments. As of December 31, 2015, the Plan had investments listed in the table below. Amounts are shown in dollars. Effective duration is shown in years. Investments held by the Plan were not subject to custodial credit risk or foreign currency risk.

	Fair Value	Effective Duration
Fixed income investments:		
Principal Core Plus Bond I Account	\$ 14,038,547	5.46
Principal Bond Market Index Account	4,765,078	5.70
Principal High Yield I Account	2,285,313	4.24
Total fixed income investments	21,088,938	
Other investments, non-fixed income investments	27,035,322	
Total investments	<u>\$ 48,124,260</u>	

Des Moines Water Works

Notes to Basic Financial Statements

Note 2. Cash and Investments (Continued)

Interest rate risk: Interest rate risk is the risk that changes in market interest rates will adversely affect the fair value of an investment. Generally, the longer the maturity of an investment, the greater the sensitivity of its fair value to changes in market interest rates. In accordance with the Water Works' investment policy the Water Works minimizes the market value risk of investments in the portfolio by structuring its investment portfolio so that securities identified for operations mature to meet cash requirements within the next 15 months.

Credit risk and concentration of credit risk: Generally, credit risk is the risk that an issuer of an investment will not fulfill its obligations to the holder of the investment. This is measured by the assignment of a rating by a nationally recognized statistical rating organization. The pooled separate accounts held by the Plan are commingled pools, rather than individual securities. As a result, these investments are not rated.

Note 3. Capital Assets

Capital assets activity for the year ended December 31, 2015 is as follows:

	Beginning Balance	Increases	Decreases	Ending Balance
Capital assets not being depreciated:				
Land	\$ 6,885,639	\$ 446,788	\$ -	\$ 7,332,427
Construction-in-progress	6,227,747	19,557,862	14,833,333	10,952,276
Total capital assets not being depreciated	13,113,386	20,004,650	14,833,333	18,284,703
Capital assets being depreciated:				
Buildings, equipment and machinery	172,823,889	5,025,828	214,985	177,634,732
Supply system	53,182,258	1,647,593	-	54,829,851
Distribution system	198,834,580	10,864,338	-	209,698,918
Total capital assets being depreciated	424,840,727	17,537,759	214,985	442,163,501
Less accumulated depreciation for:				
Buildings, equipment and machinery	82,583,155	4,833,894	214,985	87,202,064
Supply system	17,259,085	720,918	-	17,980,003
Distribution system	55,232,211	3,290,230	-	58,522,441
Total accumulated depreciation	155,074,451	8,845,042	214,985	163,704,508
Total capital assets being depreciated, net	269,766,276	8,692,717	-	278,458,993
Net capital assets	\$ 282,879,662	\$ 28,697,367	\$ 14,833,333	\$ 296,743,696

Note 4. Noncurrent Liabilities

As of December 31, 2015, Water Works' debt consists of Water Revenue Refunding Bonds, Series 2011, Series 2012A and Series 2012B; and Water Revenue Capital Loan Note, Series 2003 (through the Drinking Water State Revolving Fund (SRF)). Interest on these bonds and note is payable semiannually on June 1 and December 1, with principal payable on December 1. Series 2011 matures on December 1, 2017, Series 2012A matures on December 1, 2023, and Series 2012B matures on December 1, 2025. The Series 2003 note matures on December 1, 2022. The bonds and note are redeemable at the option of Water Works prior to their maturity in whole or, from time to time, in part, in any order of maturity and within a maturity by lot, at a price of par plus accrued interest to call date.

Des Moines Water Works

Notes to Basic Financial Statements

Note 4. Noncurrent Liabilities (Continued)

Changes in long-term obligations for the year ended December 31, 2015 is as follows:

	Beginning Balance (as restated)	Additions	Reductions	Ending Balance	Amounts Due Within One Year
Water Revenue Bonds:					
Series 2011	\$ 4,205,000	\$ -	\$ 1,590,000	\$ 2,615,000	\$ 1,655,000
Series 2012 A & B	37,370,000	-	3,515,000	33,855,000	3,620,000
Water Revenue Capital, Series 2003	1,132,000	-	127,000	1,005,000	131,000
Unamortized Bond Premium	2,460,705	-	447,554	2,013,151	-
Net pension liability	6,853,542	9,459,808	-	16,313,350	-
Other postemployment benefits liability	5,823,726	732,999	197,917	6,358,808	-
Capital lease payable	-	129,265	41,360	87,905	21,023
Compensated absences	3,283,747	3,375,452	3,283,747	3,375,452	2,494,986
	<u>\$ 61,128,720</u>	<u>\$ 13,697,524</u>	<u>\$ 9,202,578</u>	<u>\$ 65,623,666</u>	<u>\$ 7,922,009</u>

A summary of the aggregate principal and interest requirements outstanding for the Water Revenue Refunding Bonds, Series 2011 is as follows:

Maturing During Year Ending December 31:	Interest Rate	Annual Principal Payment	Annual Interest Payment	Total Annual Payment
2016	3.00%	\$ 1,655,000	\$ 78,450	\$ 1,733,450
2017	3.00	960,000	28,800	988,800
		<u>\$ 2,615,000</u>	<u>\$ 107,250</u>	<u>\$ 2,722,250</u>

A summary of the aggregate principal and interest requirements outstanding for the Water Revenue Refunding Bonds, Series 2012A is as follows:

Maturing During Year Ending December 31:	Interest Rate	Annual Principal Payment	Annual Interest Payment	Total Annual Payment
2016	2.00%	\$ 435,000	\$ 67,125	\$ 502,125
2017	2.00	445,000	58,425	503,425
2018	2.00	450,000	49,525	499,525
2019	2.00	460,000	40,525	500,525
2020	2.00	475,000	31,325	506,325
2021-2023	2.00 - 2.125	1,085,000	36,075	1,121,075
		<u>\$ 3,350,000</u>	<u>\$ 283,000</u>	<u>\$ 3,633,000</u>

Des Moines Water Works

Notes to Basic Financial Statements

Note 4. Noncurrent Liabilities (Continued)

A summary of the aggregate principal and interest requirements outstanding for the Water Revenue Refunding Bonds, Series 2012B is as follows:

Maturing During Year Ending December 31:	Interest Rate	Annual Principal Payment	Annual Interest Payment	Total Annual Payment
2016	3.00%	\$ 3,185,000	\$ 915,150	\$ 4,100,150
2017	3.00	2,805,000	819,600	3,624,600
2018	3.00	2,890,000	735,450	3,625,450
2019	3.00	2,990,000	648,750	3,638,750
2020	3.00	3,090,000	559,050	3,649,050
2021-2025	3.00	15,545,000	1,341,900	16,886,900
		<u>\$ 30,505,000</u>	<u>\$ 5,019,900</u>	<u>\$ 35,524,900</u>

A summary of the aggregate principal and interest requirements outstanding for the Water Revenue Capital Loan Note is as follows:

Maturing During Year Ending December 31:	Interest Rate	Annual Principal Payment	Annual Interest Payment	Total Annual Payment
2016	1.75%	\$ 131,000	\$ 17,588	\$ 148,588
2017	1.75	135,000	15,295	150,295
2018	1.75	139,000	12,932	151,932
2019	1.75	143,000	10,500	153,500
2020	1.75	148,000	7,998	155,998
2021-2022	1.75	309,000	8,155	317,155
		<u>\$ 1,005,000</u>	<u>\$ 72,468</u>	<u>\$ 1,077,468</u>

The water revenue bond and water revenue capital loan note resolutions (Resolutions) provide that future water customer revenues, net of specified operating expenses of Water Works, are pledged for the purpose of paying Series 2011 and Series 2012 bonds. Proceeds from the bonds were used to provide additional infrastructure needs. The bonds are payable solely from customers net revenues. The Resolutions further require that sufficient monies be set aside to meet current expenses of Water Works. All remaining monies are to be segregated and restricted in separate special reserves. These special reserves are reflected as restricted assets on the statement of net position. The Resolutions also require the issuer maintain insurance coverage of a kind and in an amount which usually would be carried by private companies engaged in a similar kind of business. Water Works maintains fire and extended coverage insurance in the amount of \$374,058,693 per occurrence on building and contents; in addition, liability insurance is maintained.

Des Moines Water Works

Notes to Basic Financial Statements

Note 4. Noncurrent Liabilities (Continued)

A summary of the outstanding debt, principal and interest requirements are as follows:

	Issue Date	Year Maturing	Principal and Interest Remaining	Principal and Interest Paid in 2015	Annual Payments as a Percentage of Net Revenues
Water Revenue Bonds:					
Series 2011	3/1/2011	2017	\$ 2,722,250	\$ 1,716,150	12.98%
Series 2012 A	10/30/2012	2023	3,633,000	505,725	3.83
Series 2012 B	10/30/2012	2025	35,524,900	4,092,700	30.96
Water Revenue Capital, Series 2003	4/16/2003	2022	1,077,468	146,810	1.11
			<u>\$ 42,957,618</u>	<u>\$ 6,461,385</u>	<u>48.88%</u>

Total customer net revenues were \$13,219,208. Annual principal and interest payments on the bonds are approximately 49 percent of net revenues.

The Water Works has financed the acquisition of certain equipment by means of capital leases; therefore the leases were recorded at the inception date as a liability at the present value of the future minimum lease payments. The future minimum lease payments and the present value of the remaining minimum lease payments as of December 31, 2015 are as follows:

Maturing During Year Ending December 31:	Interest Rate	Total Annual Payment
2016	3.30%	\$ 21,023
2017	3.30	21,023
2018	3.30	21,023
2019	3.30	21,023
2020	3.30	21,022
Total minimum lease payments		<u>105,114</u>
Less amount representing interest		<u>17,209</u>
Present value of future minimum lease payments		<u>\$ 87,905</u>

Equipment as of December 31, 2015 includes the following assets under capital lease:

Equipment	\$ 158,265
Less accumulated depreciation	(31,653)
Total	<u>\$ 126,612</u>

Des Moines Water Works

Notes to Basic Financial Statements

Note 5. Retirement Plans

As a result of the adoption of GASB Statement Nos. 68 and 71, the beginning net position of the business-type activities was restated. The effect on beginning net position is as follows:

	<u>Business-Type Activities</u>
Net position December 31, 2014, as previously reported	\$ 249,120,345
Restatement due to Water Works Pension Plan	
Net pension liability	(5,564,263)
Changes in attribution method and assumptions	3,904,400
Removal of net pension obligation	83,337
Restatement due to IPERS	
Net pension liability	(5,193,679)
Pension related deferred inflows	(1,980,720)
Pension related deferred outflows	5,571,266
Net position December 31, 2014, as restated	<u>\$ 245,940,686</u>

Des Moines Water Works Pension Plan:

Plan description: Water Works has a frozen noncontributory defined benefit single employer pension plan, established by the Board, called the Des Moines Water Works Pension Plan (the Plan). Benefits vest after five years of continuous service and normal retirement is allowed at or after age 65. Early retirement is allowed without a reduction in benefits beginning at age 55 if the employee's combined years of service and age are 85 or greater and is allowed with reduced benefits for vested employees with less than 30 years of service beginning at age 55. The Plan was restated effective December 31, 2013. After that date, accrued plan benefits were frozen and will not increase due to any changes in average compensation or continuous service after such date. The pension benefit formula is based upon a percent of average compensation and the number of years of service with Water Works. A participant's monthly accrued benefit is equal to 1.5 percent of their average monthly compensation times their years of continuous service with Water Works. Average monthly compensation is determined by taking the average monthly pay for the 60 consecutive full calendar months out of the 120 calendar months prior to December 31, 2013 which gives the highest average. The Plan also provides death and disability benefits to vested employees. The Plan Administrator is the Board of Trustees of Des Moines Water Works. The Plan issues a publicly available financial report that includes financial statements and required supplementary information. The report may be obtained by writing to or calling the Water Works.

Basis of accounting: The Plan records are maintained on the accrual basis of accounting. Employer contributions to the Plan are recognized when due and the employer has made a formal commitment to provide the contributions. Benefits are recognized when due and payable in accordance with the terms of the Plan. The Plan's investments in pooled separate accounts are stated at fair value based on quoted market prices of the investments held in each account as determined by Principal Life Insurance Company (Principal). Purchases and sales of securities are recorded on a trade date basis. Interest income is recorded on the accrual basis. Dividends are recorded on the ex-dividend date. Net appreciation (depreciation) includes the Plan's gains and losses on investments bought and sold, as well as, held during the year. Benefits are recognized when due and payable in accordance with the terms of the Plan.

Des Moines Water Works

Notes to Basic Financial Statements

Note 5. Retirement Plans (Continued)

Membership data at December 31, 2015 included:

Active plan members	142
Inactive plan members entitled to but not yet receiving benefits	59
Disabled plan members entitled to but not yet receiving benefits	5
Retired plan members or beneficiaries currently receiving benefits	157
	<u>363</u>

Contributions: The Plan receives an annual actuarial valuation for the purpose of determining recommended contribution rates. The actuarially determined contribution rate is the estimated amount necessary to finance the costs of benefits earned by plan members during the year, with additional amounts to finance any unfunded accrued liability and plan administrative expenses. The Plan's funding policy provides for periodic employer contributions at rates that are sufficient to accumulate assets to pay benefits to Plan participants. Amounts contributed to the Plan from Water Works are determined by the Board of Trustees of Des Moines Water Works. However, as the Plan is exempt from ERISA funding requirements, any amount may be contributed to the Plan.

Rate of return: For the year ended December 31, 2015, the annual money weighted rate of return on Plan investments, net of investment expense was (1.27) percent. The money weighted rate of return expresses investment performance, net of investment expense, adjusted for the changing amounts actually invested.

Net pension liability: The total pension liability was determined using an actuarial valuation date of December 31, 2015 using general accepted actuarial principals and methods. In 2015, Water Works adopted GASB Statement No. 68, *Accounting and Financial Reporting for Pensions*. Water Works is utilizing December 31, 2015 as its measurement date for reporting its net pension liability and related deferred inflows/outflows in their financial statements.

Des Moines Water Works

Notes to Basic Financial Statements

Note 5. Retirement Plans (Continued)

A schedule of the Plan's changes in its net pension liability for the year ended December 31, 2015 is as follows:

Total pension liability	
Service cost	\$ 580,106
Interest	3,342,170
Benefit payments	(2,826,683)
Difference between expected and actual experience	320,599
Net change in total pension liability	<u>1,416,192</u>
 Total pension liability - beginning of year	<u>52,334,304</u>
Total pension liability - end of year	<u><u>\$ 53,750,496</u></u>
 Plan fiduciary net position	
Contributions - employer	\$ 911,175
Investment income, net of investment expenses of \$22,091	(629,997)
Benefit payments	(2,826,683)
Administrative expenses	(4,676)
Net change in plan fiduciary net position	<u>(2,550,181)</u>
 Total plan fiduciary net position, beginning of year	<u>50,674,441</u>
Total plan fiduciary net position, end of year	<u><u>\$ 48,124,260</u></u>
 Net pension liability	<u><u>\$ 5,626,236</u></u>
 Plan fiduciary net position as a percentage of the total pension liability	89.53%

Des Moines Water Works

Notes to Basic Financial Statements

Note 5. Retirement Plans (Continued)

Actuarial assumptions for the year ended December 31, 2015 are as shown in the table below:

December 31, 2015																	
Actuarial valuation:																	
Frequency	Annual																
Cost method	Entry age normal																
Amortization	The amortization method used is Level Dollar Over a Closed Period. The weighted average remaining period is 15 years.																
Assumptions:																	
Long-term rate of return	6.5% per year																
Salary increases	N/A - Attribution is made on an individual basis, beginning with the first period in which the employee's service accrues pension benefit through all assumed exit ages through retirement. The projected inflation rate of 2.5% has been used in place of the projected rate of change in salary.																
Retirement age	Retirement Age Based Table as follows:																
	<table> <tr> <th>Age</th><th>Rate</th></tr> <tr> <td>55</td><td>25%</td></tr> <tr> <td>56</td><td>15</td></tr> <tr> <td>57 - 61</td><td>5</td></tr> <tr> <td>62</td><td>20</td></tr> <tr> <td>63</td><td>5</td></tr> <tr> <td>64</td><td>10</td></tr> <tr> <td>65 and older</td><td>100</td></tr> </table>	Age	Rate	55	25%	56	15	57 - 61	5	62	20	63	5	64	10	65 and older	100
Age	Rate																
55	25%																
56	15																
57 - 61	5																
62	20																
63	5																
64	10																
65 and older	100																
Mortality	Adjusted RP-2014 Mortality with Scale MP-2015 - Generational MI scale, annuitant, male and female.																
Disability	1987 Commissioner's Group Disability Table, six month elimination period, male and female.																
Rate of withdrawal	2003 Society of Actuaries Small Plan Age Table, multiplied by 0.45.																

Discount rate: The discount rate used to measure the total pension liability was 6.50 percent. The plan's fiduciary net position and benefit payments were projected to determine if the plan's fiduciary net position was greater than or equal to the expected benefit payments for each period from 2015 to 2105. Benefit payments after 2105 are projected to be none. Therefore, the long-term expected rate of return on the pension plan investments was applied to all periods of projected benefit payments to determine the total pension liability.

Des Moines Water Works

Notes to Basic Financial Statements

Note 5. Retirement Plans (Continued)

Sensitivity of the Plan's net pension liability to changes in the discount rate: The following presents the Plan's net pension liability calculated using the single discount rate of 6.50 percent, as well as what the Plan's net pension liability would be if it were calculated using a discount rate that is 1-percentage-point lower (5.50 percent) or 1-percentage-point higher (7.50 percent) than the current rate.

1% Decrease (5.50%)	Current discount rate (6.50%)	1% Increase (7.50%)
\$11,644,484	\$5,626,236	\$505,381

Pension expense and deferred outflows of resources related to pensions: For the year ended December 31, 2015, Water Works recognized pension expense for the Water Works Pension Plan of \$1,580,041. At December 31, 2015, Water Works reported deferred outflows of resources related the Water Works Pension Plan from the following sources:

	Deferred Outflows of Resources
Differences between expected and actual plan experience	\$ 220,412
Net differences between expected and actual investment income	3,077,095
Total deferred outflows of resources	<u>\$ 3,297,507</u>

Amounts reported as Deferred Outflows of Resources related to pensions will be recognized in pension expense as follows:

Year ended December 31:	Deferred Outflows of Resources
2016	\$ 869,461
2017	869,461
2018	789,312
2019	769,273
	<u>\$ 3,297,507</u>

Deferred outflows of resources for differences between expected and actual plan experience will be recognized over a closed period equal to the average of the expected remaining service lives of all employees (active employees, vested, terminated, and retirees) as of the beginning of the measurement period. Deferred outflows of resources for differences between projected and actual earnings on pension plan investments will be recognized over a closed five-year period.

Des Moines Water Works

Notes to Basic Financial Statements

Note 5. Retirement Plans (Continued)

Iowa Public Employees' Retirement System:

Plan description: IPERS membership is mandatory for employees of the Water Works. Employees of the Water Works are provided with pensions through a cost-sharing multiple employer defined benefit pension plan administered by Iowa Public Employees' Retirement System (IPERS). IPERS issues a stand-alone financial report which is available to the public by mail at 7401 Register Drive P.O. Box 9117, Des Moines, Iowa 50306-9117 or at www.ipers.og.

IPERS benefits are established under Iowa Code Chapter 97B and the administrative rules there under. Chapter 97B and the administrative rules are the official plan documents. The following brief description is provided for general informational purposes only. Refer to the plan documents for more information.

Pension benefits: A regular member may retire at normal retirement age and receive monthly benefits without an early-retirement reduction. Normal retirement age is age 65, any time after reaching age 62 with 20 or more years of covered employment, or when the member's years of service plus the member's age at the last birthday equals or exceeds 88, whichever comes first. (These qualifications must be met on the member's first month of entitlement to benefits). Members cannot begin receiving retirement benefits before age 55. The formula used to calculate a Regular member's monthly IPERS benefit includes:

- A multiplier (based on years of service).
- The member's highest five-year average salary. (For members with service before June 30, 2012, the highest three-year average salary as of that date will be used if it is greater than the highest five-year average salary.)

If a member retires before normal retirement age, the member's monthly retirement benefit will be permanently reduced by an early-retirement reduction. The early-retirement reduction is calculated differently for service earned before and after July 1, 2012. For service earned before July 1, 2012, the reduction is .25 percent for each month that the member receives benefits before the member's earliest normal retirement age. For service earned starting July 1, 2012, the reduction is .50 percent for each month that the member receives benefits before age 65.

Generally, once a member selects a benefit option, a monthly benefit is calculated and remains the same for the rest of the member's lifetime. However, to combat the effects of inflation, retirees who began receiving benefits prior to July 1990 receive a guaranteed dividend with their regular November benefit payments.

Disability and death benefits: A vested member who is awarded federal Social Security disability or Railroad Retirement disability benefits is eligible to claim IPERS benefits regardless of age. Disability benefits are not reduced for early retirement. If a member dies before retirement, the member's beneficiary will receive a lifetime annuity or a lump-sum payment equal to the present actuarial value of the member's accrued benefit or calculated with a set formula, whichever is greater. When a member dies after retirement, death benefits depend on the benefit option the member selected at retirement.

Des Moines Water Works

Notes to Basic Financial Statements

Note 5. Retirement Plans (Continued)

Contributions: Effective July 1, 2012, as a result of a 2010 law change, the contribution rates are established by IPERS following the annual actuarial valuation, which applies IPERS' Contribution Rate Funding Policy and Actuarial Amortization Method. Statute limits the amount rates can increase or decrease each year to 1 percent point. IPERS Contribution Rate Funding Policy requires that the actuarial contribution rate be determined using the "entry age normal" actuarial cost method and the actuarial assumptions and methods approved by the IPERS Investment Board. The actuarial contribution rate covers normal cost plus the unfunded actuarial liability payment based on a 30-year amortization period. The payment to amortize the unfunded actuarial liability is determined as a level percentage of payroll, based on the Actuarial Amortization Method adopted by the Investment Board.

In fiscal year 2015, pursuant to the required rate, Regular members contributed 5.95 percent of pay and the Water Works contributed 8.93 percent for a total rate of 14.88 percent.

The Water Works' contributions to IPERS for the year ended December 31, 2015 were \$1,404,619.

Pension liabilities, pension expense, and deferred outflows of resources and deferred inflows of resources related to pensions: At December 31, 2015, the Water Works reported a liability of \$10,687,114 for its proportionate share of the net pension liability. The net pension liability was measured as of June 30, 2015, and the total pension liability used to calculate the net pension liability was determined by an actuarial valuation as of that date. The Water Works' proportion of the net pension liability was based on the Water Works' share of contributions to the pension plan relative to the contributions of all participating governments. At June 30, 2015, the Water Works' proportion was 0.214970 percent, which was an increase of 0.086639 percent from its proportion measured as of June 30, 2014.

For the year ended December 31, 2015, the Water Works recognized pension expense of \$3,582,851. At December 31, 2015, the Water Works reported deferred outflows of resources and deferred inflows of resources related to the IPERS pension from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between expected and actual plan experience	\$ 161,469	\$ -
Changes of assumptions	294,243	-
Net difference between projected and actual investment earnings on pension plan investments	1,599,004	2,488,452
Changes in proportion and differences between Water Works contributions and proportionate share of contributions	7,332,170	-
Water Works contributions subsequent to the measurement date	676,181	-
	<u>\$ 10,063,067</u>	<u>\$ 2,488,452</u>

Des Moines Water Works

Notes to Basic Financial Statements

Note 5. Retirement Plans (Continued)

\$676,181 reported as deferred outflows of resources related to pensions resulting from Water Works' contributions subsequent to the measurement date will be recognized as a reduction of the net pension liability in the year ended December 31, 2016. Other amounts reported as deferred outflows of resources and deferred inflows of resources related to pensions will be recognized in pension expense as follows:

	Deferred Outflows of Resources	Deferred Inflows of Resources
2017	\$ 2,503,489	\$ (829,484)
2018	2,503,489	(829,484)
2019	2,503,489	(829,484)
2020	1,640,926	-
2021	235,493	-
	<u>\$ 9,386,886</u>	<u>\$ (2,488,452)</u>

Deferred outflows of resources for differences between expected and actual plan experience, changes in assumptions and changes in proportion will be recognized over a closed period equal to the average of the expected remaining service lives of all employees (active employees, vested, terminated and retirees) as of the beginning of the measurement period. Deferred outflows and inflows of resources for differences between projected and actual earnings on pension plan investments will be recognized over a closed five-year period.

Actuarial assumptions: The total pension liability was determined by an actuarial valuation as of June 30, 2015, using the following actuarial assumptions, applied to all periods included in the measurement:

Inflation	3.00 percent
Salary increases	4.00 to 17.00 percent, including inflation. Rates vary by membership group
Long-term rate of return	7.50 percent compounded annually, net of investment expense and including inflation

Mortality rates were based on the RP-2000 Combined Mortality Table for Males or Females, as appropriate, with adjustments for mortality improvements based on Scale AA.

The actuarial assumptions used in the June 30, 2015 valuation were based on the results of an actuarial experience study for the four-year period ending June 30, 2013.

Des Moines Water Works

Notes to Basic Financial Statements

Note 5. Retirement Plans (Continued)

The long-term expected rate of return on pension plan investments was determined using a building-block method in which best-estimate ranges of expected future real rates of return (expected returns, net of pension plan investment expense and inflation) are developed for each major asset class. These ranges are combined to produce the long-term expected rate of return by weighting the expected future real rates of return by the target asset allocation percentage and by adding expected inflation. The target allocation and best estimates of arithmetic real rates of return for each major asset class are summarized in the following table:

Asset Class	Target Allocation	Long-Term Expected Real Rate of Return
Core-plus fixed income	28%	2.04%
Domestic equity	24	6.29
International equity	16	6.75
Private equity/debt	11	11.32
Real estate	8	3.48
Credit opportunities	5	3.63
U.S. TIPS	5	1.91
Other real assets	2	6.24
Cash	1	(0.71)
	<u>100%</u>	

Discount rate: The discount rate used to measure the total pension liability was 7.50 percent. The projection of cash flows used to determine the discount rate assumed that employee contributions will be made at the current contribution rate and that contributions from Water Works will be made at contractually required rates, actuarially determined. Based on those assumptions, the pension plan's fiduciary net position was projected to be available to make all projected future benefit payments of current active and inactive employees. Therefore, the long-term expected rate of return on pension plan investments was applied to all periods of projected benefit payments to determine the total pension liability.

Sensitivity of the Water Works' proportionate share of the net pension liability to changes in the discount rate: The following presents the Water Works' proportionate share of the net pension liability calculated using the discount rate of 7.50 percent, as well as what the Water Works' proportionate share of the net pension liability would be if it were calculated using a discount rate that is 1-percentage-point lower (6.50 percent) or 1-percentage-point higher (8.50 percent) than the current rate:

	1% Decrease (6.50%)	Current Discount Rate (7.50%)	1% Increase (8.50%)
Water Works proportionate share of the net pension liability	\$ 18,711,215	\$ 10,687,114	\$ 3,914,198

Des Moines Water Works

Notes to Basic Financial Statements

Note 5. Retirement Plans (Continued)

Pension plan fiduciary net position: Detailed information about the pension plan's fiduciary net position is available in the separately issued IPERS financial report; which can be located at www.ipers.org.

Payables to the pension plan: At December 31, 2015, the Water Works reported payables to the defined benefit pension plan of \$156,274 for legally required employer contributions and \$104,124 for legally required employee contributions which had been withheld from employee wages but not yet remitted to IPERS.

Note 6. Other Postemployment Benefits

Plan description: The Water Works sponsors a single-employer health care plan that provides certain postretirement health care benefits, in accordance with the policy established by the Board, to all employees who retire from Water Works after attaining age 55 with 5 years of service. As of December 31, 2015, 116 retirees receive postretirement health care benefits. Water Works provides a Medicare supplement or equivalent amount to all employees who retire after attaining age 55, if the sum of their age and years of service are at least 85 or for those who retire after attaining age 65 regardless of length of service. Employees who retire prior to attaining age 65 with the sum of their age and years of service less than 85 receive a discounted benefit as provided by the plan document. The plan does not issue a stand-alone financial report.

Funding policy: The health insurance plan contributions on behalf of employees are negotiated by management and the union and governed by the Water Works' union contracts.

The required contribution is based on projected pay-as-you-go financing requirements. For fiscal year 2015, the Water Works contributed \$197,917. Retirees receiving benefits contributed \$90,478. The Water Works offered a choice of three health insurance plans in 2015. The required contribution for active members and retirees under the age of 65 varied by the plan selected. Retirees over the age of 65 also contributed varying amounts based on the plan selected.

Annual OPEB cost and net OPEB obligation: The Water Works' annual other postemployment benefit (OPEB) cost (expense) is calculated based on the annual required contribution (ARC) of the employer, an amount actuarially determined in accordance to the parameters of GASB Statement No. 45. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover the normal cost each year and amortize any unfunded actuarial liabilities over a period not to exceed 30 years. The following table shows the components of the Water Works' annual OPEB cost for the year ending December 31, 2015, the amount actuarially contributed to the plan and changes in the Water Works' annual OPEB obligation:

Annual required contribution	\$ 913,060
Interest on net OPEB obligation	227,386
Adjustment to annual required contribution	(407,447)
Annual OPEB cost (expense)	<u>732,999</u>
Contributions and payments made	<u>197,917</u>
Increase in net OPEB obligation	535,082
Net OPEB obligation - beginning of year	5,823,726
Net OPEB obligation - end of year	<u><u>\$ 6,358,808</u></u>

Des Moines Water Works

Notes to Basic Financial Statements

Note 6. Other Postemployment Benefits (Continued)

The Water Works' annual OPEB cost, the percentage of annual OPEB cost contributed to the plan and the net OPEB obligations for 2015, 2014 and 2013 follows:

Fiscal Year Ended	Annual OPEB Cost	Percentage of Annual OPEB Cost Contributed	Net OPEB Obligation
December 31, 2013	\$ 1,016,213	17%	\$ 4,999,673
December 31, 2014	999,391	18	5,823,726
December 31, 2015	732,999	27	6,358,808

Funded status and funding progress as of December 31, 2015: Postemployment Benefit Obligations under GASB Statement No. 45 calculated as of December 31, 2014, the most recent valuation date, is as follows:

	Total	Members
Actuarial Accrued Liability		
Current retirees, beneficiaries and dependents	\$ (4,040,083)	76
Current active members	(9,879,267)	201
Total Actuarial Accrued Liability (AAL)	(13,919,350)	
OPEB Plan Assets	-	
Unfunded Actuarial Accrued Liability (UAAL)	(13,919,350)	

The covered payroll (annual payroll of active employees covered by the plan) for December 31, 2015 was \$15,729,212. The ratio of the UAAL to the covered payroll for December 31, 2015 was 88.5 percent.

Actuarial valuations of an ongoing plan involve estimates of the value of reported amounts and assumptions about the probability of occurrence of events far into the future. Examples include assumptions about future employment, mortality and the health care cost trend. Amounts determined regarding the funded status of the plan and annual required contributions of the employer are subject to continual revision as actual results are compared with past expectations and new estimates are made about the future. The schedule of funding progress, presented as required supplementary information following the notes to the financial statements, presents multiyear trend information about whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liabilities for benefits.

Actuarial methods and assumptions: Projections and benefits for financial reporting purposes are based on the substantive plan (the plan as understood by the employer and the plan members) and included in the types of benefits provided at the time of each valuation and the historical pattern of sharing of benefit costs between the employer and plan members to that point. The actuarial methods and assumptions used include techniques that are designed to reduce the effects of short-term volatility in actuarial accrued liabilities and the actuarial value of assets, consistent with the long-term perspective of the calculations.

In the December 31, 2014 actuarial valuation, the most recent actuarial valuation, the unit credit method was used. The actuarial assumptions included a 4.0 percent investment rate of return (net of administrative expenses) and an annual health care cost trend rate of 7.0 percent initially, grading down to 4.5 percent in 7 years. The Water Works' unfunded actuarial accrued liability is being amortized over 30 years, with 22 years remaining.

Des Moines Water Works

Notes to Basic Financial Statements

Note 7. Risk Management

Water Works is exposed to various risks of loss related to torts, theft of, damage to and destruction of assets, errors and omissions, injuries to employees, natural disasters and malpractice.

Water Works purchases commercial insurance for property and casualty, employee health, life and long-term disability insurance. During the last three years, settled claims have not exceeded insurance coverage.

Beginning in 2014, Water Works is self-insured for workers' compensation claims and utilizes a third party administrator to process claims and payments. A stop loss policy limits claims losses to \$1,000,000 per coverage year in the aggregate.

The claims liability of \$516,699 as of December 31, 2015 is based on the requirements of the Governmental Accounting Standards Board Statement No. 10, which requires that a liability for claims be reported if information indicates that it is probable that a loss has occurred and the amount of the loss can be reasonably estimated. Liabilities include an estimated amount for claims that have been incurred but not reported (IBNR) which represent estimates of the eventual loss on claims arising prior to year-end. Changes in the balance of claims liability during the year ended December 31, 2015 is as follows:

Unpaid claims, beginning of year	\$ -
Current year claims and changes in estimates	809,515
Claim payments	(292,816)
Unpaid claims, end of year	<u>\$ 516,699</u>

Note 8. Commitments

Approximately \$2,048,000 related to 2015 contracts has been formally committed as of December 31, 2015. In addition, the Board has approved approximately \$22,200,000 of expenditures for capital acquisitions and improvements, all of which are expected to be expended in 2016.

In 1983, Water Works determined additional water resources would be required for future customer needs. As a result, the Board has contracted with the United States of America – Army Corps of Engineers, through the state of Iowa, for water supply storage in the Saylorville Reservoir Project continuing through the life of the project. Under the contract, Water Works is required to pay a portion of future major renovation costs of the project. Water Works also pays a portion of the annual operation and maintenance costs of the project. Water Works portion of the operation and maintenance costs was approximately \$116,000 in 2015.

On January 1, 2014, the Water Works and the Greater Des Moines Botanical Gardens (GDMBG) entered into an agreement for Water Works to provide for \$200,000 of in-kind services to be performed for the GDMBG every year for ten years. For the year ended December 31, 2015, Water Works provided in-kind services valued at approximately \$188,000. Any over/under spending will be offset of expenses in a future year.

Des Moines Water Works

Notes to Basic Financial Statements

Note 9. New Governmental Accounting Standards Board (GASB) Statements

As of December 31, 2015, the GASB also had issued several Statements not yet implemented by the Water Works.

GASB Statement No. 72, *Fair Value Measurement and Application*, issued February 2015, will be effective for the Water Works for its year ending December 31, 2016. This Statement defines fair value and describes how fair value should be measured, what assets and liabilities should be measured at fair value, and what information about fair value should be disclosed in the notes to the financial statements. This Statement defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Investments, which generally are measured at fair value, are defined as a security or other asset that governments hold primarily for the purpose of income or profit and the present service capacity of which are based solely on their ability to generate cash or to be sold to generate cash. The related disclosures have been expanded to categorize fair values according to their relative reliability and to describe positions held in many alternative investments.

The Water Works' management intends to adopt this Statement by the required date and will modify and expand its disclosures accordingly.

GASB Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*, issued in June 2015, will be effective for the Water Works beginning with its fiscal year ending December 31, 2018. The Statement replaces the requirements of GASB Statement No. 45, *Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions* and requires governments to report a liability on the face of the financial statements for the OPEB they provide and outlines the reporting requirements by governments for defined benefit OPEB plans administered through a trust, cost-sharing OPEB plans administered through a trust and OPEB not provided through a trust. The Statement also requires governments to present more extensive note disclosures and required supplementary information about their OPEB liabilities. Some governments are legally responsible to make contributions directly to an OPEB plan or make benefit payments directly as OPEB comes due for employees of other governments. In certain circumstances, called special funding situations, the Statement requires these governments to recognize in their financial statements a share of the other government's net OPEB liability.

As a result of implementing this Statement, management will record a net OPEB liability on the financial statements for the plan. The actuarial accrued liability as of December 31, 2014, the most recent valuation date, was \$13,919,350.

GASB Statement No. 82, *Pension Issues – An Amendment of GASB Statement Nos. 67, 68 and 73*, issued March 2016, will be effective for the Water Works beginning with its fiscal year ending December 31, 2018. This Statement clarifies that a deviation, as the term is used in Actuarial Standards of Practice issued by the Actuarial Standards Board, from the guidance in an Actuarial Standard of Practice is not considered to be in conformity with the requirements of Statement Nos. 67, 68 or 73 for the selection of assumptions used in determining the total pension liability and related measures. This Statement clarifies that payments that are made by an employer to satisfy contribution requirements that are identified by the pension plan terms as plan member contribution requirements should be classified as plan member contributions for purposes of Statement 67 and as employee contributions for purposes of Statement 68. It also requires that an employer's expense and expenditures for those amounts be recognized in the period for which the contribution is assessed and classified in the same manner as the employer classifies similar compensation other than pensions (for example, as salaries and wages or as fringe benefits).

The Water Works' management has not yet determined the effect this Statement will have on the Water Works' financial statements.

Des Moines Water Works

Required Supplementary Information Other Postemployment Benefit Plan

SCHEDULE OF FUNDING PROGRESS

Fiscal Year Ended	Actuarial Valuation Date	Actuarial Value of Net Assets (a)	Actuarial Accrued Liability (AAL) (b)	Unfunded (Over funded) AAL (UAAL) (b-a)	Funded Ratio (a/b)	Covered Payroll (c)	UAAL as a Percentage of Covered Payroll [(b-a)/c]
2013	12/31/12	\$ -	\$ 13,341,003	\$ (13,341,003)	- %	\$ 14,701,939	90.7%
2014	12/31/12	-	13,341,003	(13,341,003)	-	14,786,455	90.2
2015	12/31/14	-	13,919,350	(13,919,350)	-	15,729,212	88.5

The information presented in the required supplementary schedule was determined as part of the actuarial valuation as of December 31, 2014.

Additional information follows:

- The actuarial method used to determine the ARC is the unit credit method.
- There are no plan assets.
- The actuarial assumptions included: (a) 4 percent investment rate of return and (b) a health care cost trend rate of 7 percent initially, grading down to 4.5 percent in 7 years.
- The unfunded actuarial accrued liability is being amortized over 30 years.

Des Moines Water Works

Required Supplementary Information Schedule of Changes in Net Pension Liability For the Years Ended December 31, 2015 and 2014 Des Moines Water Works Pension Plan

	2015	2014
Total pension liability		
Service cost	\$ 580,106	\$ -
Interest	3,342,170	3,449,503
Benefit payments	(2,826,683)	(2,696,531)
Difference between expected and actual experience	320,599	305,961
Changes in assumptions	-	542,112
Net change in total pension liability	1,416,192	1,601,045
Total pension liability - beginning of year	52,334,304	54,637,659
Total pension liability - end of year	\$ 53,750,496	\$ 56,238,704
Plan fiduciary net position		
Contributions - employer	\$ 911,175	\$ 906,542
Investment income (loss), net of investment expenses of \$22,091	(629,997)	2,680,610
Benefit payments	(2,826,683)	(2,696,531)
Administrative expenses	(4,676)	(4,442)
Net change in plan fiduciary net position	(2,550,181)	886,179
Total plan fiduciary net position, beginning of year	50,674,441	49,788,262
Total plan fiduciary net position, end of year	\$ 48,124,260	\$ 50,674,441
Net pension liability	\$ 5,626,236	\$ 5,564,263

Information for prior years is unavailable.

See note to required supplementary information.

Des Moines Water Works

Required Supplementary Information Schedule of Net Pension Liability and Related Ratio For the Years Ended December 31, 2015 and 2014 Des Moines Water Works Pension Plan

	2015	2014
Total pension liability - end of year	\$ 53,750,496	\$ 56,238,704
Plan net position - end of year	48,124,260	50,674,441
Net pension liability	<u>\$ 5,626,236</u>	<u>\$ 5,564,263</u>
Plan net position as a percentage of the total pension liability	89.5%	90.1%
Covered employee payroll	*	*
Net pension liability as a percentage of covered payroll	N/A	N/A

Information for prior years is unavailable.

See note to required supplementary information.

* As the Plan was frozen to future benefit accruals effective December 31, 2013, there was no covered payroll for the years ended December 31, 2015 and 2014.

Des Moines Water Works

**Required Supplementary Information
Schedule of Investment Returns
For the Years Ended December 31, 2015 and 2014
Des Moines Water Works Pension Plan**

	2015	2014
Annual money-weighted rate of return, net of investment expense	(1.27)%	5.51%

Information for prior years is unavailable.

See note to required supplementary information.

Des Moines Water Works

**Required Supplementary Information
Schedule of Contributions from the Employer
Last Ten Fiscal Years
Des Moines Water Works Pension Plan**

Plan Year Ended December 31:	Annual Required Contribution	Actual Contribution	Contribution Deficiency (Excess)	Covered Payroll	Actual Contributions as a Percent of Covered Payroll
2006	\$ 885,540	\$ 885,990	\$ (450)	\$ 10,773,915	8.22%
2007	679,631	825,000	(145,369)	11,058,383	7.46
2008	545,782	800,000	(254,218)	10,947,799	7.31
2009	1,023,319	1,023,319	-	11,694,902	8.75
2010	1,541,866	1,541,866	-	12,318,720	12.52
2011	2,204,886	2,204,886	-	12,436,915	17.73
2012	2,782,486	2,782,486	-	12,186,884	22.83
2013	2,915,710	2,915,710	-	11,453,783	25.50
2014	906,542	906,542	-	-	N/A
2015	911,175	911,175	-	-	N/A

See note to required supplementary information.

Des Moines Water Works

Note to Required Supplementary Information Des Moines Water Works Pension Plan

The information presented in the required supplementary schedule was determined as part of the actuarial valuations at the dates indicated below.

December 31, 2015

Actuarial valuation:

Frequency	Annual
Cost method	Entry age normal

Amortization	The amortization method used is Level Dollar Over a Closed Period. The weighted average remaining period is 15 years.
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Assumptions:

Long-term rate of return	6.5% per year
Salary increases	N/A - Attribution is made on an individual basis, beginning with the first period in which the employee's service accrues pension benefit through all assumed exit ages through retirement. The projected inflation rate of 2.5% has been used in place of the projected rate of change in salary.
Retirement age	Retirement Age Based Table as follows:

Age	Rate
55	25%
56	15
57 - 61	5
62	20
63	5
64	10
65 and older	100

Mortality	Adjusted RP-2014 Mortality with Scale MP-2015 - Generational MI scale, annuitant, male and female.
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Disability	1987 Commissioner's Group Disability Table, six month elimination period, male and female.
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Rate of withdrawal	2003 Society of Actuaries Small Plan Age Table, multiplied by 0.45.
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Des Moines Water Works

Note to Required Supplementary Information Des Moines Water Works Pension Plan

December 31, 2014

Actuarial valuation:

Frequency	Annual
Cost method	Entry age normal

Amortization The amortization method used is Level Dollar Over a Closed Period.
The weighted average remaining period is 15 years.

Assumptions:

Long-term rate of return	6.5% per year
Salary increases	N/A
Retirement age	Retirement Age Based Table as follows:

Age	Rate
55	25%
56	15%
57 - 61	5%
62	20%
63	5%
64	10%
65 and older	100%

Mortality RP-2014 Mortality with Scale MP-2014 - Generational Annuitant and
Non-annuitant, male and female.

Disability 1987 Commissioner's Group Disability Table, six month elimination period,
male and female.

Rate of withdrawal 2003 Society of Actuaries Small Plan Age Table, multiplied by 0.45.

Des Moines Water Works**Required Supplementary Information****Schedule of the Water Work's Proportionate Share of the Net Pension Liability
Iowa Public Employees' Retirement System**

	June 30:	
	2015	2014
Water Works' proportion of the net pension liability	0.214970%	0.128331%
Water Works' proportionate share of the net pension liability	\$ 10,687,114	\$ 5,193,679
Water Works' covered employee payroll	\$ 14,819,686	\$ 8,569,339
Water Work's proportionate share of the net pension liability as a percentage of its covered-employee payroll	72.11	60.61
Plan fiduciary net position as a percentage of the total pension liability	85.19%	87.61%

Information for prior years is unavailable.

Des Moines Water Works

**Required Supplementary Information
Schedule of Contributions from the Employer
Last Ten Fiscal Years
Iowa Public Employees' Retirement System**

Year Ended December 31:	Actuarially Determined Contribution	Actual Contribution	Contribution Deficiency (Excess)	Covered Payroll	Actual Contributions as a Percentage of Covered Payroll
2006	\$ 35,795	\$ 35,795	\$ -	N/A	N/A
2007	45,385	45,382	-	N/A	N/A
2008	60,690	60,690	-	N/A	N/A
2009	76,391	76,391	-	N/A	N/A
2010	84,335	84,335	-	N/A	N/A
2011	97,335	97,335	-	N/A	N/A
2012	120,166	120,166	-	N/A	N/A
2013	189,059	189,059	-	N/A	N/A
2014	1,213,020	1,213,020	-	N/A	N/A
2015	1,351,595	1,351,595	-	15,134,416	8.93%

From: [McCroskey, Monica J.](#)
To: [T M Cownie](#)
Cc: [Romer, Amanda M.](#); [McCroskey, Monica J.](#)
Subject: FW: Amicus Brief in Support of President Obama's Executive Action on Immigration - Deadline March 27th
Date: Tuesday, March 24, 2015 11:41:00 AM
Attachments: [5th Circuit Amicus Brief on Immigration Action.pdf](#)
[image003.png](#)

Mike Bridges called regarding this email. If you have any further questions please call him at 417-268-4053. Deadline to sign on is March 27th. Let us know if you want follow-up.

Monica McCroskey
Executive Administrative Assistant



Mayor and City Council/
City Manager's Office
400 Robert D. Ray Drive
Des Moines, IA 50309
Phone: [515-283-4944](tel:515-283-4944)
Fax: [515-237-1300](tel:515-237-1300)

From: Joseph Bernardo [mailto:joseph.bernardo@lacity.org]
Sent: Monday, March 23, 2015 7:58 PM
To: Joseph Bernardo
Subject: Re: Amicus Brief in Support of President Obama's Executive Action on Immigration

Apologies. Amicus brief attached.

On Mon, Mar 23, 2015 at 5:50 PM, Joseph Bernardo <joseph.bernardo@lacity.org> wrote:

Dear Mayor,

New York Mayor Bill De Blasio and Los Angeles Mayor Eric Garcetti will be filing an amicus brief in the case of *Texas v. United States* in support of President Obama's Executive Action on Immigration. He is asking his mayoral colleagues to join him and dozens of mayors from across the United States as co-signers. According to many studies, the programs under the Executive Action will fuel economic growth in cities across the country, and help facilitate increased integration of our immigrant communities.

If you are interested in becoming a co-signer, please review the attached memo. It describes the amicus brief, the arguments in support of the President's Executive Action, and outlines instructions on how to join. The deadline to sign on is **Thursday, March 27 by COB**.

Attached is a draft of the amicus brief for your review. If you have any questions, please contact me.

Thank you for your consideration.

Sincerely,
Joseph

--



Joseph Bernardo

Office of Los Angeles Mayor Eric Garcetti
Policy Analyst, Office of Immigrant Affairs
200 N. Spring St., Ste. 303
Los Angeles, CA 90012

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Joseph Bernardo

Office of Los Angeles Mayor Eric Garcetti
Policy Analyst, Office of Immigrant Affairs
200 N. Spring St., Ste. 303
Los Angeles, CA 90012

No. 15-40238

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

STATE OF TEXAS, *et al.*

Plaintiffs-Appellees,

v.

UNITED STATES OF AMERICA, *et al.*

Defendants-Appellants.

On appeal from the United States District Court
Southern District of Texas Brownsville Division
No. 1:14-cv-00254 (Andrew S. Hanen, J.)

**BRIEF FOR AMICI CURIAE THE MAYORS OF NEW YORK AND LOS
ANGELES, __ ADDITIONAL MAYORS, CITIES, COUNTY
EXECUTIVES, AND COUNTIES, THE UNITED STATES CONFERENCE
OF MAYORS, AND THE NATIONAL LEAGUE OF CITIES
IN SUPPORT OF APPELLANTS**

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INTRODUCTION AND INTEREST OF THE AMICI CURIAE

Amici are ___ mayors, cities, county executives, and counties from across the country, including Mayor Bill de Blasio of New York, New York; Mayor Eric Garcetti of Los Angeles, California; [*MORE TO COME*]

The *amici* mayors, county executives, and local governments have a compelling interest in this appeal and in demonstrating that the district court's grant of a preliminary injunction is strongly contrary to the public interest. Local officials witness every day the contributions that immigrants make to their neighborhoods and communities, as well as the harms that result from keeping long-time residents of those neighborhoods and communities in the shadows due to questions about their immigration status. *Amici* also see and must address the harms to families and children that an ongoing threat of deportation produces. A great number of the estimated 11 million undocumented immigrants in the United States¹ have lived in *amici*'s cities and counties for a decade or more.² So, the mayors, county executives, and cities represented in this brief have a distinctive, on-the-ground perspective and understanding of how the proposals for temporary

¹ See, e.g., Jens Manuel Krogstad & Jeffrey S. Passel, Pew Research Ctr., *5 facts about illegal immigration in the U.S.* (Nov. 18, 2014), available at <http://www.pewresearch.org/fact-tank/2014/11/18/5-facts-about-illegal-immigration-in-the-u-s> (estimating 11.2 million undocumented immigrants based on 2012 data).

² Pew Research Ctr., *A Nation of Immigrants*, (Jan. 29, 2013), available at <http://www.pewhispanic.org/2013/01/29/a-nation-of-immigrants> (noting that in 2010, nearly two-thirds of undocumented adult immigrants had lived in the United States for at least a decade).

relief from deportation outlined in the Secretary of Homeland Security's November 20, 2014 Deferred Action Guidance Memorandum (*see* Attachment 3 to Appellants' Emergency Motion for Stay Pending Appeal, filed March 12, 2015) (hereinafter, the "Executive Action") will affect eligible individuals, their families, and, indeed, all residents within *amici*'s jurisdictions.

Amici entirely support the Executive Action, which would allow eligible undocumented children and adults to apply for expanded "Deferred Action for Childhood Arrivals" ("expanded DACA") and eligible undocumented parents of U.S. citizen and lawful permanent resident children to apply for "Deferred Action for Parental Accountability" ("DAPA"). While *amici* recognize that others hold a different view about the Executive Action, it cannot be disputed that undocumented immigrants live in, work in, and form part of local communities and neighborhoods across this country—and have done so for some time. The Executive Action recognizes a reality that *amici* have long known: communities are safer, economically stronger, and better places to live when undocumented immigrants who have substantial and longstanding ties to their communities and who pose no threat to public safety are able to come out of the shadows, participate more fully in civil society, better contribute to the economic growth of their communities, and interact with government officials without fear. The Executive Action is a practical and much-needed exercise of enforcement discretion that will

allow those who qualify under expanded DACA and DAPA to participate more fully and safely in their cities, counties, and communities.

Amici demonstrate herein that a delay in implementing the Executive Action harms their cities and counties and all residents thereof by forestalling the critical benefits of that Action, which include increasing public safety and public engagement, fueling economic growth, and facilitating the full integration of immigrant residents by promoting family unity and limiting family separation. These benefits are real, and they will accrue day by day. By contrast, the plaintiffs have not identified any comparable concrete harm that would result from allowing the Executive Action to be implemented during the pendency of this case. The district court failed to consider the important and timely public interests that affect the ____ million people within *amici*'s jurisdictions, and this is one reason, among many, that the court's grant of a preliminary injunction should be reversed.

STATEMENT PURSUANT TO FED. R. APP. P. 29(c)(5)

No party to this proceeding authored any part of this brief. No party or counsel to any party to this proceeding, nor any other person other than *amici*, contributed money that was intended to fund preparing or submitting this brief.

ARGUMENT

The United States has well demonstrated the errors in the district court's holding that plaintiffs have a likelihood of success on the merits on their claim

under the Administrative Procedure Act. *Amici* focus here on the district court's failure to give appropriate consideration to the harms to the public interest that its preliminary injunction will cause. The grant of the preliminary injunction and corresponding delay in the implementation of the Executive Action is strongly contrary to the public interest, because the Executive Action will (a) increase public safety by encouraging immigrant residents to trust and cooperate with law enforcement; (b) fuel economic growth through job creation and new tax revenue; and (c) facilitate the full integration of immigrants into their communities and promote family unity. These important interests affect every resident of the ____ cities and counties that *amici* represent, day in and day out, and these interests must be taken into account when considering whether a preliminary injunction delaying implementation of the Executive Action pending the resolution of this case will serve, or disserve, the public interest. As *amici* demonstrate below, the Executive Action provides significant benefits to *amici* and the residents of *amici*'s cities and counties, and a delay in its implementation causes concrete and potentially irreversible harms.

I. The District Court Failed to Adequately Consider the Harm to the Public Interest

It is well established that plaintiffs are entitled to the extraordinary remedy of a preliminary injunction only if they can show (1) a likelihood of success on the merits; (2) a substantial threat of irreparable injury; (3) that the threatened injury outweighs any harm that will result if the injunction is granted; and (4) that the injunction will not disserve the public interest. *See Sells v. Livingston*, 750 F.3d 478, 480 (5th Cir. 2014). This Court reviews the district court’s analysis of these factors under an abuse of discretion standard, *see House the Homeless, Inc. v. Widnall*, 94 F.3d 176, 180 (5th Cir. 1996), but the Supreme Court has repeatedly confirmed that “[i]n exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction.” *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982); *see also Winter v. Natural Res. Defense Council, Inc.*, 555 U.S. 7, 24 (2008).

Here, however, the district court failed to “pay particular regard”—or, indeed, anything more than a superficial regard—for the harm that an injunction would cause to the public interest. *See* February 16, 2015 Mem. Op. and Order, Dkt. 145-2 at 120-121. Rather, based almost entirely on its finding that a single plaintiff State—Texas—would suffer irreparable harm because of the purported financial cost of processing additional driver’s license applications, the district court issued a nationwide injunction that has the direct effect of harming the public

interest across this country. In particular, the nationwide injunction runs counter to the interests expressed by the *amici* local governments that are represented here, as well as the expressed interests of 14 states and the District of Columbia, which filed their own amicus curiae brief in support of appellants.³

The district court erred in elevating the rather narrow economic interests of one plaintiff State over the countervailing and far broader public interests that the grant of the preliminary injunction will dramatically impair. This Court has stressed that when considering whether to issue a preliminary injunction, courts must look beyond “the immediate interests of the named litigants” and consider the widespread public interest that would be affected by granting or withholding the injunction. *Mississippi Power & Light Co. v. United Gas Pipe Line Co.*, 760 F.2d 618, 626 (5th Cir. 1985) (enjoining gas supplier from charging power company certain rates because of the “vital public interest involved in protecting the consumers of [the power company] against the harmful effect of overcharges”). But the district court failed to take into account any of the important benefits to *amici* and their residents that are discussed here and in the briefs of other *amici*.⁴

³ See *Texas v. United States*, No. 15-40238, Brief of the Amicus States of Washington, California, Connecticut, Delaware, Hawai’i, Illinois, Iowa, Maryland, Massachusetts, New Mexico, New York, Oregon, Rhode Island, and Vermont, and the District of Columbia, in Support of Motion to Stay District Court Preliminary Injunction, dated March 17, 2015.

⁴ See *Texas v. United States*, 1:14-cv-00254, Dkt. No. 81 (States’ Motion for Leave to Participate as Amici Curiae and Brief in Opposition to Plaintiffs’ Motion for Preliminary Injunction), Dkt. No. 83-1 (Amici Curiae Brief of Major Cities Chiefs Association, *et al.*, in Opposition to

The district court's disregard of the broader interests at play was improper, particularly since the public interest factor "primarily addresses impact on non-parties." *Hunter v. Hamilton County Bd. of Elections*, 635 F.3d 219, 244 (6th Cir. 2011) (internal quotation marks and citation omitted).

The district court's failure to properly consider the harm to the public interest was error, and its grant of a preliminary injunction should be reversed. *See, e.g., eBay Inc. v. MercExchange, LLC*, 547 U.S. 388, 394 (2006) (vacating judgment of court of appeals where "neither court below correctly applied the traditional four-factor framework that governs the award of injunctive relief"); *Edmisten v. Werholtz*, 287 F. App'x 728, 734-35 (10th Cir. 2008) (reversing and remanding the denial of a preliminary injunction due to the district court's failure to adequately analyze the public-interest prong).

II. Delaying the Implementation of the Executive Action Harms the Public Interest

A. The Executive Action Will Increase Public Safety by Encouraging More Immigrant Residents to Cooperate With Law Enforcement

The district court ignored the important interest of *amici* and the residents of *amici*'s cities and counties in increasing public safety, and further ignored that communities and their residents are harmed every day when benefits to the public

Plaintiffs' Motion for Preliminary Injunction), Dkt. No. 121 (Brief for Amici Curiae the Mayors of New York and Los Angeles, *et. al*, in Opposition to Plaintiffs' Motion for Preliminary Injunction).

safety are deferred. This Court has recognized that injunctions which limit the police's ability to conduct good-faith law enforcement efforts can cause "considerable potential harm to the public interest." *Spiegel v. Houston*, 636 F.2d 997, 1002 (5th Cir. 1981) (reversing as overbroad a preliminary injunction that prevented law enforcement from taking personal information from adult movie theater patrons under any circumstance). The district court's grant of a preliminary injunction preventing the implementation of the Executive Action will have just that effect, as it is likely to hinder the ability of local law enforcement to gain the trust and cooperation of many members of immigrant communities in reporting and investigating crimes.

It is beyond question that law enforcement officers and representatives of local government require the trust, support, and cooperation of their communities to be effective. To further the police-community bond, local law enforcement agencies have increasingly turned to "community policing," an approach to policing where officers engage the community as partners in the effort to reduce crime.⁵ However, as local leaders are keenly aware, undocumented immigrants

⁵ Anita Khashu, Police Foundation, *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties* vii, 24 (April 2009), available at <http://www.policefoundation.org/content/role-of-local-police>; see also Robert Wasserman, U.S. Department of Justice, Office of Community Oriented Policing Services, *Guidance for Building Communities of Trust* (2010), available at http://nsi.ncirc.gov/documents/e071021293_BuildingCommTrust_v2-August%2016.pdf (emphasizing the importance for communities and law enforcement to build and maintain trusting relationships to prevent acts of crime and terrorism).

often fear interactions with law enforcement and government officials because of concerns that government representatives will inquire about their immigration status or the status of a family member or friend.⁶ Any delay in the implementation of the Executive Action directly harms the ability of local law enforcement to protect the community because such delay maintains a major barrier – fear of deportation – preventing undocumented immigrants from contacting and working with police.

Trust in law enforcement among immigrant communities is particularly important when immigrants are victims or witnesses of crimes. The Major Cities Chiefs Association, a professional association of chiefs and sheriffs from the country's largest cities, has powerfully expressed the vital need to encourage immigrants' cooperation with law enforcement efforts:

Assistance and cooperation from immigrant communities is especially important when an immigrant, whether documented or undocumented, is the victim of or witness to a crime. These persons must be encouraged to file reports and come forward with information. Their cooperation is needed to prevent and solve crimes and

⁶ Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement* i-ii, 5-6 (May 2013), available at http://www.academia.edu/4738588/Insecure_Communities_Latino_Perceptions_of_Police_Involvement_in_Immigration_Enforcement (presenting findings from survey of approximately 2,000 Latinos in Chicago, Houston, Los Angeles, and Phoenix and their metropolitan areas that indicate heightening of fears among Latinos of local law enforcement and impact on crime reporting by immigrants and U.S.-born Latinos).

maintain public order, safety, and security in the whole community.⁷

Studies have shown that a large percentage of undocumented immigrants avoid law enforcement out of fear that contact with police could lead to deportation. For instance, a 2013 survey of more than 2,000 Latinos living in Chicago, Houston, Los Angeles, and Phoenix—cities with large immigrant populations—found that among undocumented immigrants, 70 percent were less likely to contact police officers if they were victims of a crime for fear police would ask about the immigrant’s immigration status, and 67 percent were less likely to voluntarily offer information about crimes or report a crime to police officers due to the same concerns.⁸

All residents of *amici*’s cities and counties are harmed each time that a person fails to report a crime or is in fear of working with police officers investigating a crime. Unfortunately, immigrants are particularly susceptible as victims. Criminals know that many immigrants are reluctant to report crimes out of a concern that police officers will question them about their immigration status

⁷ Major Cities Chiefs Immigration Committee, *Recommendations: For Enforcement of Immigration Laws by Local Police Agencies* 5 (June 2006), available at http://www.houstontx.gov/police/pdfs/mcc_position.pdf (noting also that “[l]ocal police contacts in immigrant communities are important as well in the area of intelligence gathering to prevent future terroristic attacks and strengthen homeland security”).

⁸ Theodore, *supra* note 6, at 5-6.

or the immigration status of a friend or family member.⁹ The concern that interactions with police will lead to the identification and deportation of a family member affects a large number of immigrants: it is estimated that 85 percent of immigrants are part of families where some members are undocumented.¹⁰

When perpetrators of crime remain free, the victim of the crime remains vulnerable and afraid of further harm, and criminals are able to target other innocent and unsuspecting victims.¹¹ This cycle of crime, victimization, and fear of cooperation with police harms all of *amici*'s constituents. And once suffered, these harms cannot be reversed: each victim who is afraid to report a crime or work with police may be preventing the arrest and prosecution of a violent criminal, who is then free and enabled to commit further crimes.

While the Executive Action will not eliminate completely the concerns that many immigrants express in cooperating with law enforcement, by allowing a larger number of otherwise law-abiding immigrants to formalize their deferred status, the Executive Action will increase trust and reduce trepidation of engaging

⁹ Matthew Lysakowski, *et al.*, U.S. Dep't of Justice, *Policing in New Immigrant Communities* 3 (June 2009), available at <http://vera.org/sites/default/files/resources/downloads/e060924209-NewImmigrantCommunities.pdf>.

¹⁰ Khashu, *supra* note 5, at vii, 24.

¹¹ See Amy Braunschweiger, Human Rights Watch, *Nashville Immigrants Too Scared to Call the Police* (May 19, 2014), available at <http://www.hrw.org/news/2014/05/19/nashville-immigrants-too-scared-call-police> (describing experience of a Nashville immigrant mother's fear of calling police after her daughter was assaulted).

with law enforcement. The Executive Action is expected to make up to 4 million people eligible for deferred action and a corresponding formalization of their ability to stay in the United States on a temporary basis.¹² To qualify for deferred action, immigrants will have to come forward and interact with government officials in ways that they may have been hesitant to do previously. For instance, immigrants applying for deferred action and work authorization under the Executive Action would have to register, submit biometric data, pass background checks, and pay fees, among other requirements.¹³

By allowing a larger number of immigrants to formalize their deferred status, obtain work authorization, and experience that interactions with government are not events to be feared, the Executive Action will increase trust and eliminate barriers between law enforcement and members of immigrant communities, some of whom have lived in their communities for many years and would be valuable resources to law enforcement. A preliminary injunction directly and immediately harms the interest of *amici* and their constituents because it prevents the

¹² Press Release, Migration Policy Institute, As Many as 3.7 Million Unauthorized Immigrants Could Get Relief from Deportation under Anticipated New Deferred Action Program (Nov. 19, 2014), *available at* <http://migrationpolicy.org/news/mpi-many-37-million-unauthorized-immigrants-could-get-relief-deportation-under-anticipated-new> (estimating 3.7 million DAPA-eligible immigrants and 290,000 additional DACA-eligible immigrants under the expansion of the program).

¹³ *Executive Actions on Immigration*, U.S. Citizenship and Immigration Services, <http://www.uscis.gov/immigrationaction> (last visited Mar. __, 2015).

implementation of an important immigration enforcement policy that would lead to improved public safety for the entire community.

B. The Executive Action Will Stimulate Economic Growth in Cities and Counties Nationwide

The preliminary injunction entered below will also forestall substantial economic benefits that the Executive Action will yield for communities and neighborhoods across the country. Although the district court considered the purported economic harm to Texas that would result from processing additional driver's license applications while this action was pending, that purported harm is dwarfed by the significant economic benefits that the Executive Action's implementation will produce—benefits that would accrue day by day. The government leaders and cities represented in this brief have seen first-hand that their cities and counties receive a significant economic boost from the presence of immigrants in the work force. By allowing a greater number of qualifying undocumented workers to obtain authorization to work, as the Executive Action is expected to do, the Executive Action furthers the economic interest of *amici* and the public.

As part of its consideration of the public interest prong of the preliminary injunction standard, the district court should have accounted for how the Executive Action affects the public's economic interests. *See, e.g., Amoco Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 545-46 (1987) (rejecting balancing test that elevated

environmental subsistence concerns over public's interest in development of energy resources); *Productos Carnic, S.A. v. Central Am. Beef & Seafood Trading Co.*, 621 F.2d 683, 687 (5th Cir. 1980) (noting that public interest favors economic efficiency); *Springer v. United States Marshal*, 137 F. App'x. 657, 658 (5th Cir. 2005) (noting that appellants' request for an injunction barring federal funding for a local detention center "is completely at odds with the public interest, inasmuch as it would create serious economic problems for [the local county]").

Cities have long benefitted economically from growth in their immigrant populations. In New York City, for instance, following lean economic years in the 1970s and a decline in population, the city's focus on building up its service industries attracted an influx of immigrants, whose "relative youth and economic activity" ushered in an "era of renewal and growth."¹⁴ Similarly, in Los Angeles County, the "wave of new foreign-born residents" moving to the area between 1970 and 2010 is credited with helping the county maintain its status as the largest major manufacturing center in the United States.¹⁵

¹⁴ N.Y. City Dep't of City Planning, *The Newest New Yorkers: Characteristics of the City's Newest Foreign-born Population* 1 (2013), available at <http://www.nyc.gov/html/dcp/pdf/census/nnny2013/chapter1.pdf>.

¹⁵ Jacob L. Vigdor, *Immigration and the Revival of American Cities* 8 (Sept. 2013), available at <http://www.renewoureconomy.org/wp-content/uploads/2013/09/revival-of-american-cities.pdf> (concluding that when 1,000 immigrants move to an area 46 manufacturing jobs are created or preserved, thus the influx of 2.7 million immigrants to Los Angeles County between 1970 and 2010 helps explain why Los Angeles lost relatively fewer manufacturing jobs during that time,

In addition to New York City and Los Angeles County, many other localities have recognized that immigrants—including undocumented immigrants—are a source of needed vitality, including economic vitality, as is evident from the creation of dedicated city-funded offices supporting immigrants' well-being, regardless of the immigrants' federal immigration status.¹⁶ Further, in some cities

as compared to Chicago, the second-largest manufacturing center in the United States, which added only 600,000 immigrants from 1970 to 2010).

¹⁶ Boston, Baltimore, Chicago, New York City, Philadelphia, Houston, Los Angeles, San Francisco, and Seattle have offices and staff dedicated to supporting immigrants. See City of Baltimore, Mayor's Office of Immigrant and Multicultural Affairs, <http://mayor.baltimorecity.gov/node/2229> (last visited Jan. 22, 2015); City of Boston, Mayor's Office of New Bostonians, <http://www.cityofboston.gov/newbostonians/> (last visited Jan. 22, 2015); City of Chicago, Office of New Americans, http://www.cityofchicago.org/city/en/depts/mayor/provdrs/office_of_new_americans.html (last visited Jan. 22, 2015); City of Houston, Office of International Communities, <http://www.houstontx.gov/oic> (last visited Jan. 22, 2015); Office of Los Angeles Mayor Eric Garcetti, Mayor's Office of Immigrant Affairs, <http://www.lamayor.org/immigrants> (last visited Jan. 22, 2015); New York City Mayor's Office of Immigrant Affairs, <http://www.nyc.gov/html/imm/html/home/home.shtml> (last visited Jan. 22, 2015); City of Philadelphia, Immigrant and Multicultural Affairs <http://www.phila.gov/ima/Pages/default.aspx> (last visited Jan. 22, 2015); City of San Francisco, Office of Civic Engagement & Immigrant Affairs, <http://sfgsa.org/index.aspx?page=957> (last visited Jan. 22, 2015); City of Seattle, Office of Immigrant and Refugee Affairs, <http://www.seattle.gov/office-of-immigrant-and-refugee-affairs> (last visited Jan. 22, 2014).

Other cities and counties including Atlanta, Austin, Charlotte, Pittsburgh, Portland, St. Louis, Allegheny County, Pennsylvania, and Montgomery County, Maryland, also have launched immigrant-integration initiatives. See City of Atlanta, *Mayor Kasim Reed and City of Atlanta Announce Results of Welcoming America Working Group*, Sept. 17, 2014, <http://www.atlantaga.gov/index.aspx?recordid=3041&page=672>; City of Austin, *Austin Promotes Immigrant-Friendly, Welcoming Environment*, June 27, 2013, <http://austintexas.gov/news/austin-promotes-immigrant-friendly-welcoming-environment>; City of Charlotte, Immigrant Integration Task Force, <http://charmeck.org/city/charlotte/cic/getinvolved/pages/immigrant-integration-task-force.aspx> (last visited Jan. 22, 2015); Office of Pittsburgh Mayor William Peduto, *Mayor William Peduto launches Welcoming Pittsburgh Initiative*, May 28, 2014, <http://pittsburghpa.gov/mayor/release?id=3112>; City of Portland, Diversity and Civic Leadership Program, <http://www.portlandoregon.gov/oni/45147> (last visited Jan. 22, 2015); *St. Louis Mosaic*

and counties that have experienced recent economic struggles, organizations have launched immigrant-integration initiatives “as a means to produce jobs and regional economic growth,”¹⁷ and government officials have lauded how immigrant populations have “renovated and revitalized whole neighborhoods.”¹⁸

A major reason that cities and counties have taken these steps to support the integration of immigrants in their communities is the proven boost that results for local economies and local labor markets. For instance, a 2012 report by the Partnership for a New American Economy estimated that immigrants started 28 percent of all new businesses in the country in 2011, and that immigrant-owned businesses generate more than \$775 billion in revenue, \$125 billion in payroll, and \$100 billion in income, as well as employing one out of every 10 workers in the

Project, <http://www.stlmosaicproject.org/> (last visited Jan. 22, 2015) (city-funded regional initiative launched in 2012 to welcome immigrants to St. Louis); Allegheny County, *A Welcoming America County*, <http://www.alleghenycounty.us/executive/WelcomingAmerica.aspx> (last visited Mar. 19, 2015); Montgomery County Charles W. Gilchrist Center for Cultural Diversity, <http://www.montgomerycountymd.gov/gilchrist/index.html> (last visited Mar. 19, 2015).

¹⁷ See Global Detroit, About Us, <http://www.globaldetroit.com/about> (describing Global Detroit as a non-profit that focuses on revitalizing “Michigan’s economy by pursuing strategies that strengthen Detroit’s connections to the world to make the region more attractive and welcoming to immigrants, internationals, and foreign trade and investment as a means to produce jobs and regional economic growth”) (last visited Mar. ____, 2015).

¹⁸ Susan Hartman, *A New Life for Refugees, and the City They Adopted*, N.Y. Times, Aug. 10, 2014, http://www.nytimes.com/2014/08/11/nyregion/a-new-life-for-refugees-and-the-city-they-adopted.html?_r=0 (quoting Oneida county executive Anthony J. Picente Jr.); cf. Julia Preston, *Ailing Midwestern Cities Extend a Welcoming Hand to Immigrants*, N.Y. Times, Oct. 6, 2013, at <http://www.nytimes.com/2013/10/07/us/ailing-cities-extend-hand-to-immigrants.html> (noting welcoming attitudes among local officials in Dayton towards undocumented immigrants).

United States.¹⁹ Immigrants have a particularly significant footprint when it comes to the creation and management of businesses that make up the “backbone” of local communities; a January 2015 report showed that in 2013, immigrants in the United States made up 61 percent of all gas station owners, 58 percent of dry cleaners owners, 53 percent of grocery store owners, 45 percent of nail salon owners, 43 percent of liquor store owners, 38 percent of restaurant owners, and 32 percent of both jewelry and clothing store owners.²⁰ And research shows that the employment opportunities created by immigrant-owned businesses and immigration in general have a long-term beneficial effect on all U.S. workers, including U.S.-born wage earners.²¹

While immigration in general provides long-term economic benefits for cities, counties, and wage-earners, the implementation of the Executive Action also

¹⁹ Robert W. Fairlie, Partnership for a New American Economy, *Open for Business: How Immigrants are Driving Small Business Creation in the United States* 3 (August 2012), available at <http://www.renewoureconomy.org/sites/all/themes/pnae/openforbusiness.pdf>.

²⁰ Americas Society/Council of the Americas & Fiscal Policy Institute, *Bringing Vitality to Main Street: How Immigrant Small Businesses Help Local Economies Grow* 2 (January 2015), available at <http://fiscalpolicy.org/wp-content/uploads/2015/01/Bringing-Vitality-to-Main-Street.pdf>.

²¹ Heidi Shierholz, Econ. Policy Inst. Briefing Paper No. 255, *Immigration and Wages: Methodological Advancements Confirm Modest Gains for Native Workers* 19-20 (Feb. 4, 2010), available at <http://www.epi.org/files/page/-/bp255/bp255.pdf> (finding that between 1994 and 2007, immigration caused a 0.4 percent increase in wages for U.S.-born workers, relative to foreign-born workers); see also Gianmarco I.P. Ottaviano & Giovanni Peri, Nat’l Bureau of Econ. Research, *Rethinking the Effects of Immigration on Wages* 4 (2006, revised 2008), available at <http://www.nber.org/papers/w12497> (finding that U.S.-born workers’ wages increased 0.7 percent due to immigration between 1990 to 2004).

would create an immediate economic spark for those groups. On a national level, one study estimates that if 3.8 million people obtained work permits through the Executive Action, it would lead to a labor income increase of \$7.1 billion, which will result in more than \$2.6 billion in new tax revenue and the creation of more than 167,000 new jobs.²² Another study concludes that if 4.7 million people obtained work permits through the Executive Action, it would result in increased payroll tax revenues of \$2.87 billion in the first year and \$21.24 billion in the first five years of the program.²³ Moreover, providing work authorization to individuals covered by the Executive Action is certain to improve worker protections, minimizing wage theft and the loss in tax revenue from the wage theft.²⁴

The economic benefit of the Executive Action can be quantified on a local level as well. Taking New York City as an example, if, as some studies have found, an undocumented worker's wages increase by seven percent when he or she

²² Raul Hinojosa-Ojeda and Maksim Wynn, UCLA North American Integration and Development Center, *From the Shadows to the Mainstream: Estimating the Economic Impact of Presidential Administrative Action and Comprehensive Immigration Reform* 32 (Nov. 21, 2014), available at http://naid.ucla.edu/uploads/4/2/1/9/4219226/ucla_naid_center_report_-_estimating_the_economic_impact_of_presidential_administrative_action_and_comprehensive_immigration_reform.pdf.

²³ Patrick Oakford, Center for American Progress, *Administrative Action on Immigration Reform: The Fiscal Benefits of Temporary Work Permits* 9 (2014), available at <http://cdn.americanprogress.org/wp-content/uploads/2014/09/OakfordAdminRelief.pdf>.

²⁴ *Id.* at 5 (“The interaction between our broken immigration system and employment and labor laws have made undocumented workers more susceptible to exploitation in the workplace, leading them to earn lower wages than they otherwise could.”).

obtains authorization to work,²⁵ then an undocumented worker in New York City currently making \$3,200 a month—the average monthly wage for undocumented workers in New York state²⁶—is missing out on an average of \$224 every month in marginal wage gains that he or she would earn if the Executive Action were in place. If even only 100,000 undocumented workers in New York City who obtained temporary work authorization were taxed on their additional \$224 in earnings at 7.1 percent—the estimated effective tax rate for undocumented workers in New York state²⁷—then the state and the city would reap more than \$1.5 million *monthly* in marginal state and local tax revenue.²⁸ Certainly, a delay in the Executive Action’s implementation directly harms local economies and residents

²⁵ Raul Hinojosa-Ojeda and Maksim Wynn, *supra* n. ___, at 12 (table comparing income impact by legal status); *see also* Silva Mathema, Center for American Progress, *The High Costs of Delaying Executive Action on Immigration* (March 13, 2015), available at <https://www.americanprogress.org/issues/immigration/news/2015/03/13/108768/the-high-costs-of-delaying-executive-action-on-immigration> (estimating that work authorization increases earnings of an undocumented worker by nearly 8.5 percent).

²⁶ Institute on Taxation and Economic Policy, *Undocumented Immigrants’ State and Local Tax Contributions* 9 (July 2013), available at <http://www.itep.org/pdf/undocumentedtaxes.pdf> (estimating \$38,400 in annual income for average undocumented worker in New York state).

²⁷ *Id.* at 7.

²⁸ The number of individuals in New York City likely to be eligible for temporary work authorization under the Executive Action is likely to be far greater than 100,000 and is perhaps as high as 183,000. *See* Migration Policy Institute, *Unauthorized Immigrant Population Profiles: County Profiles* (2015), available at <http://www.migrationpolicy.org/programs/us-immigration-policy-program-data-hub/unauthorized-immigrant-population-profiles> (follow link to “County-Level Estimates on DACA & DAPA Populations,” estimating population eligible for expanded DACA and DAPA in New York City’s five counties—New York, Kings, Queens, the Bronx, and Richmond) (last visited Mar. ___, 2015).

by reducing the potential tax revenues for cities and counties, reducing the subsequent public spending and benefits that would come from that tax revenue, and limiting the increased economic activity that would result from additional income among immigrant households.

Past experience also suggests that the Executive Action will rapidly improve the economic outlook for many of the currently undocumented workers living in *amici*'s cities and counties. Studies tracking how the 2012 Deferred Action for Childhood Arrivals Program ("2012 DACA") affected young adults show marked progress for those individuals in several economic indicators. For instance, a survey of nearly 2,400 individuals who received 2012 DACA showed that within two years, almost 60 percent of beneficiaries obtained a new job, and 45 percent increased their salaries.²⁹ Further, 49 percent of those surveyed opened their first bank accounts within two years after receiving 2012 DACA, and 33 percent obtained their first credit card.³⁰

The Executive Action will similarly benefit a broad group of immigrants who already have significant ties to *amici*'s cities and counties and who already contribute economically in various ways. By formalizing the work status of

²⁹ Roberto Gonzales & Angie M. Bautista-Chavez, American Immigration Council, *Two Years and Counting: Assessing the Growing Power of DACA* 3 (June 2014), available at <http://www.immigrationpolicy.org/special-reports/two-years-and-counting-assessing-growing-power-daca>.

³⁰ *Id.*

hundreds of thousands of wage-earners, the Executive Action will increase wage levels and tax revenues in the *amici*'s jurisdictions. Preventing the immediate implementation of the Executive Action will have the opposite effect, depriving local governments and residents of these proven economic benefits. Such a result would be contrary to the public interest.

C. The Executive Action Will Promote Family Unity and Facilitate the Integration of Immigrant Residents in Cities Nationwide

The profound importance of family unity is codified in the nation's immigration laws³¹ and recognized as a protected liberty interest under the U.S. Constitution. *See, e.g., Moore v. City of East Cleveland*, 431 U.S. 494, 503 (1977) (“[O]ur decisions establish that the Constitution protects the sanctity of the family precisely because it is deeply rooted in the Nation’s history and tradition.”); *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (noting that “[t]he Court has frequently emphasized the importance of the family”). The *amici* mayors, county executives, and local governments have a strong interest in federal action that promotes family unity because a rupture in the family unit results in many potentially harmful outcomes that often fall to local governments to address, such

³¹ *See, e.g.,* 8 U.S.C. § 1254a(c)(2)(A)(ii) (allowing the Attorney General to find certain individuals eligible for Temporary Protected Status “for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest”); 8 U.S.C. § 1182(d)(11) (providing Attorney General with discretionary waiver of exclusion in certain circumstances, including to “assure family unity”); *Holder v. Martinez Gutierrez*, ___ U.S. ___, 132 S. Ct. 2011, 2019 (2012) (noting that “promoting family unity” is one of the goals that “underlie or inform many provisions of immigration law”).

as reduced household income, increased reliance on public benefits and services, increased occurrences of negative health consequences for children, and a greater likelihood of educational problems for children. Further, *amici* have a strong interest in the full integration of all residents, including immigrants, into the fabric of the community. The district court wrongly failed to consider any of these important public interests.

Delayed implementation of the Executive Action forces immigrant families in mixed-status households—households where some members are documented or U.S. citizens and some are undocumented—to live under an ongoing fear of deportation and separation from their loved ones.³² The plain reality is that families are routinely torn apart through the enforcement of the immigration laws. For instance, in New York City from 2005 to 2010, 87 percent of the parents of U.S. citizen children that federal immigration authorities apprehended were

³² An estimated 5.5 million U.S. citizen children live with an undocumented parent who is eligible for DAPA. See Manuel Pastor, *et al.*, University of Southern California Dornsife Center for the Study of Immigrant Integration, *The Kids Aren't Alright – But They Could Be: The Impact of Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) on Children* (March 2015), available at http://dornsife.usc.edu/assets/sites/731/docs/DAPA_Impact_on_Children_CSII_Brief_Final_01.pdf; see also Paul Taylor, *et al.*, Pew Research Center, *Unauthorized immigrants: Length of Residency, Patterns of Parenthood* (Dec. 1, 2011), available at <http://www.pewhispanic.org/2011/12/01/unauthorized-immigrants-length-of-residency-patterns-of-parenthood> (estimating that 9 million people live in mixed-status families that include at least one undocumented adult and one U.S.-born child).

deported,³³ and nationally 46,000 parents of citizen children were deported in the first six months of 2011 alone.³⁴

The broader community and local government, as well as immigrant families themselves, are harmed when deportation ruptures family unity. From a community and government perspective, the splitting of families through deportation results in direct financial costs. Children in single-parent households are more than four times as likely to live in poverty than are children with married parents,³⁵ and households that lose the family breadwinner due to immigration enforcement experience “steep declines” in income, housing instability, and food insufficiency, resulting in increased reliance on public benefits.³⁶ Deportations that split up families also cause increased stress upon already busy public service

³³ N.Y. Univ. School of Law Immigrant Rights Clinic, *Insecure Communities, Devastated Families: New Data on Immigrant Detention and Deportation Practices in New York City* 18 (2012), available at <http://immigrantdefenseproject.org/wp-content/uploads/2012/07/NYC-FOIA-Report-2012-FINAL.pdf>.

³⁴ Seth Freed Wessler, *U.S. Deports 46K Parents with Citizen Kids in Just Six Months*, Colorlines, Nov. 3, 2011, available at http://colorlines.com/archives/2011/11/shocking_data_on_parents_deported_with_citizen_children.html.

³⁵ Joanna Dreby, Center for American Progress, *How Today's Immigration Enforcement Policies Impact Children, Families, and Communities* 9 (August 2012), available at <http://cdn.americanprogress.org/wp-content/uploads/2012/08/DrebyImmigrationFamiliesFINAL.pdf>.

³⁶ Ajay Chaudry, et al., Urban Institute, *Facing Our Future: Children in the Aftermath of Immigration Enforcement* viii-ix (February 2010), available at http://www.urban.org/uploadedpdf/412020_FacingOurFuture_final.pdf at viii-ix (examining consequences of parental arrest, detention, and deportation on 190 children in 85 families in six locations in the U.S.).

systems, such as the foster care system. One study estimates that in 2011 there were 5,100 children in foster care nationwide whose parents had been either detained or deported,³⁷ placing increased strain upon local governments' foster care systems and on the child whose parents could no longer provide care and comfort.

From a family perspective, research has shown that children left behind after the deportation of a family member may experience a number of significant health setbacks and have a greater likelihood of struggling in school and even dropping out completely. For instance, interviews with a sample of children who had experienced separation from a parent within the last six months due to immigration detention found that in addition to approximately two-thirds of the children having trouble eating and sleeping, more than 40 percent were considered "anxious" or "withdrawn" and only slightly fewer were "angry or aggressive."³⁸ The same

³⁷ Seth Freed Wessler, Applied Research Center, *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System* 6 (November 2011), available at http://www.atlanticphilanthropies.org/sites/default/files/uploads/ARC_Report_Shattered_Families_FULL_REPORT_Nov2011Release.pdf.

³⁸ Chaudry, *et al.*, *supra* n. ___, at 41-42; *see also id.* at 41-53 (detailing short-term and long-term behavior changes among children who experienced separation from parents due to immigration enforcement); Kalina Brabeck, *et al.*, Report for the Inter-American Human Rights Court, *The Psychosocial Impact of Detention and Deportation on U.S. Migrant Children and Families* 5 (August 2013), available at <http://www.bc.edu/content/dam/files/centers/humanrights/doc/IACHR%20Report%20on%20Psychosocial%20Impact%20of%20Detention%20%20Deportation-FINAL%208-16-13.pdf> ("The physical separation between a parent and child, particularly when unexpected as in the case of deportation, disrupts the essential secure base, risking internalizing symptoms (depression,

study also reported instances where non-arrested parents were afraid to return their children to school after the arrest of one parent on immigration-related charges, while older students occasionally dropped out of school entirely to assist non-arrested parents or siblings.³⁹ The *amici* local governments have a significant public health interest in ensuring that all children in their communities – children of undocumented immigrants included – are healthy, educated, and able to participate in community life.

The implementation of the Executive Action will promote family well-being and children's health by offering stability and reassurance to the millions of children whose parents can apply for temporary relief from deportation through DAPA. This is a key benefit because studies show that children's health is negatively impacted simply by the *threat* that a close family member will be detained or deported. As the nation's immigration issues and policies are frequently discussed in the media and in immigrant communities, immigrant children and adults develop understandable fears about visiting public spaces and engaging with government and law enforcement officials.⁴⁰ Children of immigrants also begin to associate all immigrants with illegality and link their own

anxiety), externalizing behaviors (withdrawal, aggression), and social and cognitive difficulties.”).

³⁹ Chaudry, *et al.*, *supra* n. ___, at 49-50.

⁴⁰ Dreby, *supra* n. ___, at 21.

immigrant heritage with feelings of shame.⁴¹ The Executive Action will help address these ongoing negative impacts on family well-being and children's health; delay in implementation obstructs these much-needed social benefits to the detriment of cities and counties.⁴²

Amici have a strong interest in ensuring that all members of the community feel comfortable getting involved in local issues and community affairs, whether that means volunteering in local schools, participating in community board meetings, or simply interacting with their local governments. The Executive Action will increase civic engagement because, for those that qualify, it will remove the threat that interactions with school officials, law enforcement, and other local government officials will result in arrest or deportation.

Allowing the federal government to implement the Executive Action will help to prevent the splitting of families due to deportation and directly encourage greater immigrant participation in community life while this action is pending. For

⁴¹ *Id.* at 27-28; see also Max Ehrenfreund, *How having an undocumented parent hurts American children*, Wash. Post, March 4, 2015, <http://www.washingtonpost.com/blogs/wonkblog/wp/2015/03/04/how-having-an-undocumented-parent-hurts-american-children> (reporting on study of Los Angeles households that surveyed 2,535 children and determined that even young children of undocumented parents are aware of the risks of family separation and feel shame about their family's immigration status).

⁴² See Joanna Dreby, Center for American Progress, *Executive Action on Immigration will Help Children and Families* (March 3, 2015), available at <https://www.americanprogress.org/issues/immigration/news/2015/03/03/107769/executive-action-on-immigration-will-help-children-and-families/?elqTrackId=1728770977694509a243555a81ef9d2e&elqaid=24822&elqat=1> (emphasizing the toll that immigration system has on American families and the potential for improvement due to the Executive Action).

this reason, too, the preliminary injunction blocking implementation of the Executive Action is contrary to the public interest.

CONCLUSION

For the reasons set forth in this Brief, as well as those set forth by appellants and their other supporting *amici*, the district court's grant of a preliminary injunction should be reversed.

Respectfully submitted,

March __, 2015

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From: [McCroskey, Monica J.](#)
To: [T M Cownie](#)
Cc: [Romer, Amanda M.](#); [McCroskey, Monica J.](#)
Subject: FW: Amicus Brief in Support of President Obama's Executive Action on Immigration - Deadline March 27th
Date: Tuesday, March 24, 2015 11:41:38 AM
Attachments: [5th Circuit Amicus Brief on Immigration Action.pdf](#)
[image003.png](#)

Mike Bridges called regarding this email. If you have any further questions please call him at 417-268-4053. Deadline to sign on is March 27th. Let us know if you want follow-up.

Monica McCroskey
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From: Joseph Bernardo [mailto:joseph.bernardo@lacity.org]
Sent: Monday, March 23, 2015 7:58 PM
To: Joseph Bernardo
Subject: Re: Amicus Brief in Support of President Obama's Executive Action on Immigration

Apologies. Amicus brief attached.

On Mon, Mar 23, 2015 at 5:50 PM, Joseph Bernardo <joseph.bernardo@lacity.org> wrote:

Dear Mayor,

New York Mayor Bill De Blasio and Los Angeles Mayor Eric Garcetti will be filing an amicus brief in the case of *Texas v. United States* in support of President Obama's Executive Action on Immigration. He is asking his mayoral colleagues to join him and dozens of mayors from across the United States as co-signers. According to many studies, the programs under the Executive Action will fuel economic growth in cities across the country, and help facilitate increased integration of our immigrant communities.

If you are interested in becoming a co-signer, please review the attached memo. It describes the amicus brief, the arguments in support of the President's Executive Action, and outlines instructions on how to join. The deadline to sign on is **Thursday, March 27 by COB.**

Attached is a draft of the amicus brief for your review. If you have any questions, please contact me.

Thank you for your consideration.

Sincerely,
Joseph

--



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No. 15-40238

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

STATE OF TEXAS, *et al.*

Plaintiffs-Appellees,

v.

UNITED STATES OF AMERICA, *et al.*

Defendants-Appellants.

On appeal from the United States District Court
Southern District of Texas Brownsville Division
No. 1:14-cv-00254 (Andrew S. Hanen, J.)

**BRIEF FOR AMICI CURIAE THE MAYORS OF NEW YORK AND LOS
ANGELES, __ ADDITIONAL MAYORS, CITIES, COUNTY
EXECUTIVES, AND COUNTIES, THE UNITED STATES CONFERENCE
OF MAYORS, AND THE NATIONAL LEAGUE OF CITIES
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INTRODUCTION AND INTEREST OF THE AMICI CURIAE

Amici are ___ mayors, cities, county executives, and counties from across the country, including Mayor Bill de Blasio of New York, New York; Mayor Eric Garcetti of Los Angeles, California; [*MORE TO COME*]

The *amici* mayors, county executives, and local governments have a compelling interest in this appeal and in demonstrating that the district court's grant of a preliminary injunction is strongly contrary to the public interest. Local officials witness every day the contributions that immigrants make to their neighborhoods and communities, as well as the harms that result from keeping long-time residents of those neighborhoods and communities in the shadows due to questions about their immigration status. *Amici* also see and must address the harms to families and children that an ongoing threat of deportation produces. A great number of the estimated 11 million undocumented immigrants in the United States¹ have lived in *amici*'s cities and counties for a decade or more.² So, the mayors, county executives, and cities represented in this brief have a distinctive, on-the-ground perspective and understanding of how the proposals for temporary

¹ See, e.g., Jens Manuel Krogstad & Jeffrey S. Passel, Pew Research Ctr., *5 facts about illegal immigration in the U.S.* (Nov. 18, 2014), available at <http://www.pewresearch.org/fact-tank/2014/11/18/5-facts-about-illegal-immigration-in-the-u-s> (estimating 11.2 million undocumented immigrants based on 2012 data).

² Pew Research Ctr., *A Nation of Immigrants*, (Jan. 29, 2013), available at <http://www.pewhispanic.org/2013/01/29/a-nation-of-immigrants> (noting that in 2010, nearly two-thirds of undocumented adult immigrants had lived in the United States for at least a decade).

relief from deportation outlined in the Secretary of Homeland Security's November 20, 2014 Deferred Action Guidance Memorandum (*see* Attachment 3 to Appellants' Emergency Motion for Stay Pending Appeal, filed March 12, 2015) (hereinafter, the "Executive Action") will affect eligible individuals, their families, and, indeed, all residents within *amici*'s jurisdictions.

Amici entirely support the Executive Action, which would allow eligible undocumented children and adults to apply for expanded "Deferred Action for Childhood Arrivals" ("expanded DACA") and eligible undocumented parents of U.S. citizen and lawful permanent resident children to apply for "Deferred Action for Parental Accountability" ("DAPA"). While *amici* recognize that others hold a different view about the Executive Action, it cannot be disputed that undocumented immigrants live in, work in, and form part of local communities and neighborhoods across this country—and have done so for some time. The Executive Action recognizes a reality that *amici* have long known: communities are safer, economically stronger, and better places to live when undocumented immigrants who have substantial and longstanding ties to their communities and who pose no threat to public safety are able to come out of the shadows, participate more fully in civil society, better contribute to the economic growth of their communities, and interact with government officials without fear. The Executive Action is a practical and much-needed exercise of enforcement discretion that will

allow those who qualify under expanded DACA and DAPA to participate more fully and safely in their cities, counties, and communities.

Amici demonstrate herein that a delay in implementing the Executive Action harms their cities and counties and all residents thereof by forestalling the critical benefits of that Action, which include increasing public safety and public engagement, fueling economic growth, and facilitating the full integration of immigrant residents by promoting family unity and limiting family separation. These benefits are real, and they will accrue day by day. By contrast, the plaintiffs have not identified any comparable concrete harm that would result from allowing the Executive Action to be implemented during the pendency of this case. The district court failed to consider the important and timely public interests that affect the ____ million people within *amici*'s jurisdictions, and this is one reason, among many, that the court's grant of a preliminary injunction should be reversed.

STATEMENT PURSUANT TO FED. R. APP. P. 29(c)(5)

No party to this proceeding authored any part of this brief. No party or counsel to any party to this proceeding, nor any other person other than *amici*, contributed money that was intended to fund preparing or submitting this brief.

ARGUMENT

The United States has well demonstrated the errors in the district court's holding that plaintiffs have a likelihood of success on the merits on their claim

under the Administrative Procedure Act. *Amici* focus here on the district court's failure to give appropriate consideration to the harms to the public interest that its preliminary injunction will cause. The grant of the preliminary injunction and corresponding delay in the implementation of the Executive Action is strongly contrary to the public interest, because the Executive Action will (a) increase public safety by encouraging immigrant residents to trust and cooperate with law enforcement; (b) fuel economic growth through job creation and new tax revenue; and (c) facilitate the full integration of immigrants into their communities and promote family unity. These important interests affect every resident of the ____ cities and counties that *amici* represent, day in and day out, and these interests must be taken into account when considering whether a preliminary injunction delaying implementation of the Executive Action pending the resolution of this case will serve, or disserve, the public interest. As *amici* demonstrate below, the Executive Action provides significant benefits to *amici* and the residents of *amici*'s cities and counties, and a delay in its implementation causes concrete and potentially irreversible harms.

I. The District Court Failed to Adequately Consider the Harm to the Public Interest

It is well established that plaintiffs are entitled to the extraordinary remedy of a preliminary injunction only if they can show (1) a likelihood of success on the merits; (2) a substantial threat of irreparable injury; (3) that the threatened injury outweighs any harm that will result if the injunction is granted; and (4) that the injunction will not disserve the public interest. *See Sells v. Livingston*, 750 F.3d 478, 480 (5th Cir. 2014). This Court reviews the district court’s analysis of these factors under an abuse of discretion standard, *see House the Homeless, Inc. v. Widnall*, 94 F.3d 176, 180 (5th Cir. 1996), but the Supreme Court has repeatedly confirmed that “[i]n exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction.” *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982); *see also Winter v. Natural Res. Defense Council, Inc.*, 555 U.S. 7, 24 (2008).

Here, however, the district court failed to “pay particular regard”—or, indeed, anything more than a superficial regard—for the harm that an injunction would cause to the public interest. *See* February 16, 2015 Mem. Op. and Order, Dkt. 145-2 at 120-121. Rather, based almost entirely on its finding that a single plaintiff State—Texas—would suffer irreparable harm because of the purported financial cost of processing additional driver’s license applications, the district court issued a nationwide injunction that has the direct effect of harming the public

interest across this country. In particular, the nationwide injunction runs counter to the interests expressed by the *amici* local governments that are represented here, as well as the expressed interests of 14 states and the District of Columbia, which filed their own amicus curiae brief in support of appellants.³

The district court erred in elevating the rather narrow economic interests of one plaintiff State over the countervailing and far broader public interests that the grant of the preliminary injunction will dramatically impair. This Court has stressed that when considering whether to issue a preliminary injunction, courts must look beyond “the immediate interests of the named litigants” and consider the widespread public interest that would be affected by granting or withholding the injunction. *Mississippi Power & Light Co. v. United Gas Pipe Line Co.*, 760 F.2d 618, 626 (5th Cir. 1985) (enjoining gas supplier from charging power company certain rates because of the “vital public interest involved in protecting the consumers of [the power company] against the harmful effect of overcharges”). But the district court failed to take into account any of the important benefits to *amici* and their residents that are discussed here and in the briefs of other *amici*.⁴

³ See *Texas v. United States*, No. 15-40238, Brief of the Amicus States of Washington, California, Connecticut, Delaware, Hawai’i, Illinois, Iowa, Maryland, Massachusetts, New Mexico, New York, Oregon, Rhode Island, and Vermont, and the District of Columbia, in Support of Motion to Stay District Court Preliminary Injunction, dated March 17, 2015.

⁴ See *Texas v. United States*, 1:14-cv-00254, Dkt. No. 81 (States’ Motion for Leave to Participate as Amici Curiae and Brief in Opposition to Plaintiffs’ Motion for Preliminary Injunction), Dkt. No. 83-1 (Amici Curiae Brief of Major Cities Chiefs Association, *et al.*, in Opposition to

The district court's disregard of the broader interests at play was improper, particularly since the public interest factor "primarily addresses impact on non-parties." *Hunter v. Hamilton County Bd. of Elections*, 635 F.3d 219, 244 (6th Cir. 2011) (internal quotation marks and citation omitted).

The district court's failure to properly consider the harm to the public interest was error, and its grant of a preliminary injunction should be reversed. *See, e.g., eBay Inc. v. MercExchange, LLC*, 547 U.S. 388, 394 (2006) (vacating judgment of court of appeals where "neither court below correctly applied the traditional four-factor framework that governs the award of injunctive relief"); *Edmisten v. Werholtz*, 287 F. App'x 728, 734-35 (10th Cir. 2008) (reversing and remanding the denial of a preliminary injunction due to the district court's failure to adequately analyze the public-interest prong).

II. Delaying the Implementation of the Executive Action Harms the Public Interest

A. The Executive Action Will Increase Public Safety by Encouraging More Immigrant Residents to Cooperate With Law Enforcement

The district court ignored the important interest of *amici* and the residents of *amici*'s cities and counties in increasing public safety, and further ignored that communities and their residents are harmed every day when benefits to the public

Plaintiffs' Motion for Preliminary Injunction), Dkt. No. 121 (Brief for Amici Curiae the Mayors of New York and Los Angeles, *et. al*, in Opposition to Plaintiffs' Motion for Preliminary Injunction).

safety are deferred. This Court has recognized that injunctions which limit the police's ability to conduct good-faith law enforcement efforts can cause "considerable potential harm to the public interest." *Spiegel v. Houston*, 636 F.2d 997, 1002 (5th Cir. 1981) (reversing as overbroad a preliminary injunction that prevented law enforcement from taking personal information from adult movie theater patrons under any circumstance). The district court's grant of a preliminary injunction preventing the implementation of the Executive Action will have just that effect, as it is likely to hinder the ability of local law enforcement to gain the trust and cooperation of many members of immigrant communities in reporting and investigating crimes.

It is beyond question that law enforcement officers and representatives of local government require the trust, support, and cooperation of their communities to be effective. To further the police-community bond, local law enforcement agencies have increasingly turned to "community policing," an approach to policing where officers engage the community as partners in the effort to reduce crime.⁵ However, as local leaders are keenly aware, undocumented immigrants

⁵ Anita Khashu, Police Foundation, *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties* vii, 24 (April 2009), available at <http://www.policefoundation.org/content/role-of-local-police>; see also Robert Wasserman, U.S. Department of Justice, Office of Community Oriented Policing Services, *Guidance for Building Communities of Trust* (2010), available at http://nsi.ncirc.gov/documents/e071021293_BuildingCommTrust_v2-August%2016.pdf (emphasizing the importance for communities and law enforcement to build and maintain trusting relationships to prevent acts of crime and terrorism).

often fear interactions with law enforcement and government officials because of concerns that government representatives will inquire about their immigration status or the status of a family member or friend.⁶ Any delay in the implementation of the Executive Action directly harms the ability of local law enforcement to protect the community because such delay maintains a major barrier – fear of deportation – preventing undocumented immigrants from contacting and working with police.

Trust in law enforcement among immigrant communities is particularly important when immigrants are victims or witnesses of crimes. The Major Cities Chiefs Association, a professional association of chiefs and sheriffs from the country's largest cities, has powerfully expressed the vital need to encourage immigrants' cooperation with law enforcement efforts:

Assistance and cooperation from immigrant communities is especially important when an immigrant, whether documented or undocumented, is the victim of or witness to a crime. These persons must be encouraged to file reports and come forward with information. Their cooperation is needed to prevent and solve crimes and

⁶ Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement* i-ii, 5-6 (May 2013), available at http://www.academia.edu/4738588/Insecure_Communities_Latino_Perceptions_of_Police_Involvement_in_Immigration_Enforcement (presenting findings from survey of approximately 2,000 Latinos in Chicago, Houston, Los Angeles, and Phoenix and their metropolitan areas that indicate heightening of fears among Latinos of local law enforcement and impact on crime reporting by immigrants and U.S.-born Latinos).

maintain public order, safety, and security in the whole community.⁷

Studies have shown that a large percentage of undocumented immigrants avoid law enforcement out of fear that contact with police could lead to deportation. For instance, a 2013 survey of more than 2,000 Latinos living in Chicago, Houston, Los Angeles, and Phoenix—cities with large immigrant populations—found that among undocumented immigrants, 70 percent were less likely to contact police officers if they were victims of a crime for fear police would ask about the immigrant’s immigration status, and 67 percent were less likely to voluntarily offer information about crimes or report a crime to police officers due to the same concerns.⁸

All residents of *amici*’s cities and counties are harmed each time that a person fails to report a crime or is in fear of working with police officers investigating a crime. Unfortunately, immigrants are particularly susceptible as victims. Criminals know that many immigrants are reluctant to report crimes out of a concern that police officers will question them about their immigration status

⁷ Major Cities Chiefs Immigration Committee, *Recommendations: For Enforcement of Immigration Laws by Local Police Agencies* 5 (June 2006), available at http://www.houstontx.gov/police/pdfs/mcc_position.pdf (noting also that “[l]ocal police contacts in immigrant communities are important as well in the area of intelligence gathering to prevent future terroristic attacks and strengthen homeland security”).

⁸ Theodore, *supra* note 6, at 5-6.

or the immigration status of a friend or family member.⁹ The concern that interactions with police will lead to the identification and deportation of a family member affects a large number of immigrants: it is estimated that 85 percent of immigrants are part of families where some members are undocumented.¹⁰

When perpetrators of crime remain free, the victim of the crime remains vulnerable and afraid of further harm, and criminals are able to target other innocent and unsuspecting victims.¹¹ This cycle of crime, victimization, and fear of cooperation with police harms all of *amici*'s constituents. And once suffered, these harms cannot be reversed: each victim who is afraid to report a crime or work with police may be preventing the arrest and prosecution of a violent criminal, who is then free and enabled to commit further crimes.

While the Executive Action will not eliminate completely the concerns that many immigrants express in cooperating with law enforcement, by allowing a larger number of otherwise law-abiding immigrants to formalize their deferred status, the Executive Action will increase trust and reduce trepidation of engaging

⁹ Matthew Lysakowski, *et al.*, U.S. Dep't of Justice, *Policing in New Immigrant Communities* 3 (June 2009), available at <http://vera.org/sites/default/files/resources/downloads/e060924209-NewImmigrantCommunities.pdf>.

¹⁰ Khashu, *supra* note 5, at vii, 24.

¹¹ See Amy Braunschweiger, Human Rights Watch, *Nashville Immigrants Too Scared to Call the Police* (May 19, 2014), available at <http://www.hrw.org/news/2014/05/19/nashville-immigrants-too-scared-call-police> (describing experience of a Nashville immigrant mother's fear of calling police after her daughter was assaulted).

with law enforcement. The Executive Action is expected to make up to 4 million people eligible for deferred action and a corresponding formalization of their ability to stay in the United States on a temporary basis.¹² To qualify for deferred action, immigrants will have to come forward and interact with government officials in ways that they may have been hesitant to do previously. For instance, immigrants applying for deferred action and work authorization under the Executive Action would have to register, submit biometric data, pass background checks, and pay fees, among other requirements.¹³

By allowing a larger number of immigrants to formalize their deferred status, obtain work authorization, and experience that interactions with government are not events to be feared, the Executive Action will increase trust and eliminate barriers between law enforcement and members of immigrant communities, some of whom have lived in their communities for many years and would be valuable resources to law enforcement. A preliminary injunction directly and immediately harms the interest of *amici* and their constituents because it prevents the

¹² Press Release, Migration Policy Institute, As Many as 3.7 Million Unauthorized Immigrants Could Get Relief from Deportation under Anticipated New Deferred Action Program (Nov. 19, 2014), *available at* <http://migrationpolicy.org/news/mpi-many-37-million-unauthorized-immigrants-could-get-relief-deportation-under-anticipated-new> (estimating 3.7 million DAPA-eligible immigrants and 290,000 additional DACA-eligible immigrants under the expansion of the program).

¹³ *Executive Actions on Immigration*, U.S. Citizenship and Immigration Services, <http://www.uscis.gov/immigrationaction> (last visited Mar. __, 2015).

implementation of an important immigration enforcement policy that would lead to improved public safety for the entire community.

B. The Executive Action Will Stimulate Economic Growth in Cities and Counties Nationwide

The preliminary injunction entered below will also forestall substantial economic benefits that the Executive Action will yield for communities and neighborhoods across the country. Although the district court considered the purported economic harm to Texas that would result from processing additional driver's license applications while this action was pending, that purported harm is dwarfed by the significant economic benefits that the Executive Action's implementation will produce—benefits that would accrue day by day. The government leaders and cities represented in this brief have seen first-hand that their cities and counties receive a significant economic boost from the presence of immigrants in the work force. By allowing a greater number of qualifying undocumented workers to obtain authorization to work, as the Executive Action is expected to do, the Executive Action furthers the economic interest of *amici* and the public.

As part of its consideration of the public interest prong of the preliminary injunction standard, the district court should have accounted for how the Executive Action affects the public's economic interests. *See, e.g., Amoco Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 545-46 (1987) (rejecting balancing test that elevated

environmental subsistence concerns over public's interest in development of energy resources); *Productos Carnic, S.A. v. Central Am. Beef & Seafood Trading Co.*, 621 F.2d 683, 687 (5th Cir. 1980) (noting that public interest favors economic efficiency); *Springer v. United States Marshal*, 137 F. App'x. 657, 658 (5th Cir. 2005) (noting that appellants' request for an injunction barring federal funding for a local detention center "is completely at odds with the public interest, inasmuch as it would create serious economic problems for [the local county]").

Cities have long benefitted economically from growth in their immigrant populations. In New York City, for instance, following lean economic years in the 1970s and a decline in population, the city's focus on building up its service industries attracted an influx of immigrants, whose "relative youth and economic activity" ushered in an "era of renewal and growth."¹⁴ Similarly, in Los Angeles County, the "wave of new foreign-born residents" moving to the area between 1970 and 2010 is credited with helping the county maintain its status as the largest major manufacturing center in the United States.¹⁵

¹⁴ N.Y. City Dep't of City Planning, *The Newest New Yorkers: Characteristics of the City's Newest Foreign-born Population* 1 (2013), available at <http://www.nyc.gov/html/dcp/pdf/census/nnny2013/chapter1.pdf>.

¹⁵ Jacob L. Vigdor, *Immigration and the Revival of American Cities* 8 (Sept. 2013), available at <http://www.renewoureconomy.org/wp-content/uploads/2013/09/revival-of-american-cities.pdf> (concluding that when 1,000 immigrants move to an area 46 manufacturing jobs are created or preserved, thus the influx of 2.7 million immigrants to Los Angeles County between 1970 and 2010 helps explain why Los Angeles lost relatively fewer manufacturing jobs during that time,

In addition to New York City and Los Angeles County, many other localities have recognized that immigrants—including undocumented immigrants—are a source of needed vitality, including economic vitality, as is evident from the creation of dedicated city-funded offices supporting immigrants' well-being, regardless of the immigrants' federal immigration status.¹⁶ Further, in some cities

as compared to Chicago, the second-largest manufacturing center in the United States, which added only 600,000 immigrants from 1970 to 2010).

¹⁶ Boston, Baltimore, Chicago, New York City, Philadelphia, Houston, Los Angeles, San Francisco, and Seattle have offices and staff dedicated to supporting immigrants. See City of Baltimore, Mayor's Office of Immigrant and Multicultural Affairs, <http://mayor.baltimorecity.gov/node/2229> (last visited Jan. 22, 2015); City of Boston, Mayor's Office of New Bostonians, <http://www.cityofboston.gov/newbostonians/> (last visited Jan. 22, 2015); City of Chicago, Office of New Americans, http://www.cityofchicago.org/city/en/depts/mayor/provdrs/office_of_new_americans.html (last visited Jan. 22, 2015); City of Houston, Office of International Communities, <http://www.houstontx.gov/oic> (last visited Jan. 22, 2015); Office of Los Angeles Mayor Eric Garcetti, Mayor's Office of Immigrant Affairs, <http://www.lamayor.org/immigrants> (last visited Jan. 22, 2015); New York City Mayor's Office of Immigrant Affairs, <http://www.nyc.gov/html/imm/html/home/home.shtml> (last visited Jan. 22, 2015); City of Philadelphia, Immigrant and Multicultural Affairs <http://www.phila.gov/ima/Pages/default.aspx> (last visited Jan. 22, 2015); City of San Francisco, Office of Civic Engagement & Immigrant Affairs, <http://sfgsa.org/index.aspx?page=957> (last visited Jan. 22, 2015); City of Seattle, Office of Immigrant and Refugee Affairs, <http://www.seattle.gov/office-of-immigrant-and-refugee-affairs> (last visited Jan. 22, 2014).

Other cities and counties including Atlanta, Austin, Charlotte, Pittsburgh, Portland, St. Louis, Allegheny County, Pennsylvania, and Montgomery County, Maryland, also have launched immigrant-integration initiatives. See City of Atlanta, *Mayor Kasim Reed and City of Atlanta Announce Results of Welcoming America Working Group*, Sept. 17, 2014, <http://www.atlantaga.gov/index.aspx?recordid=3041&page=672>; City of Austin, *Austin Promotes Immigrant-Friendly, Welcoming Environment*, June 27, 2013, <http://austintexas.gov/news/austin-promotes-immigrant-friendly-welcoming-environment>; City of Charlotte, Immigrant Integration Task Force, <http://charmeck.org/city/charlotte/cic/getinvolved/pages/immigrant-integration-task-force.aspx> (last visited Jan. 22, 2015); Office of Pittsburgh Mayor William Peduto, *Mayor William Peduto launches Welcoming Pittsburgh Initiative*, May 28, 2014, <http://pittsburghpa.gov/mayor/release?id=3112>; City of Portland, Diversity and Civic Leadership Program, <http://www.portlandoregon.gov/oni/45147> (last visited Jan. 22, 2015); *St. Louis Mosaic*

and counties that have experienced recent economic struggles, organizations have launched immigrant-integration initiatives “as a means to produce jobs and regional economic growth,”¹⁷ and government officials have lauded how immigrant populations have “renovated and revitalized whole neighborhoods.”¹⁸

A major reason that cities and counties have taken these steps to support the integration of immigrants in their communities is the proven boost that results for local economies and local labor markets. For instance, a 2012 report by the Partnership for a New American Economy estimated that immigrants started 28 percent of all new businesses in the country in 2011, and that immigrant-owned businesses generate more than \$775 billion in revenue, \$125 billion in payroll, and \$100 billion in income, as well as employing one out of every 10 workers in the

Project, <http://www.stlmosaicproject.org/> (last visited Jan. 22, 2015) (city-funded regional initiative launched in 2012 to welcome immigrants to St. Louis); Allegheny County, *A Welcoming America County*, <http://www.alleghenycounty.us/executive/WelcomingAmerica.aspx> (last visited Mar. 19, 2015); Montgomery County Charles W. Gilchrist Center for Cultural Diversity, <http://www.montgomerycountymd.gov/gilchrist/index.html> (last visited Mar. 19, 2015).

¹⁷ See Global Detroit, About Us, <http://www.globaldetroit.com/about> (describing Global Detroit as a non-profit that focuses on revitalizing “Michigan’s economy by pursuing strategies that strengthen Detroit’s connections to the world to make the region more attractive and welcoming to immigrants, internationals, and foreign trade and investment as a means to produce jobs and regional economic growth”) (last visited Mar. ____, 2015).

¹⁸ Susan Hartman, *A New Life for Refugees, and the City They Adopted*, N.Y. Times, Aug. 10, 2014, http://www.nytimes.com/2014/08/11/nyregion/a-new-life-for-refugees-and-the-city-they-adopted.html?_r=0 (quoting Oneida county executive Anthony J. Picente Jr.); cf. Julia Preston, *Ailing Midwestern Cities Extend a Welcoming Hand to Immigrants*, N.Y. Times, Oct. 6, 2013, at <http://www.nytimes.com/2013/10/07/us/ailing-cities-extend-hand-to-immigrants.html> (noting welcoming attitudes among local officials in Dayton towards undocumented immigrants).

United States.¹⁹ Immigrants have a particularly significant footprint when it comes to the creation and management of businesses that make up the “backbone” of local communities; a January 2015 report showed that in 2013, immigrants in the United States made up 61 percent of all gas station owners, 58 percent of dry cleaners owners, 53 percent of grocery store owners, 45 percent of nail salon owners, 43 percent of liquor store owners, 38 percent of restaurant owners, and 32 percent of both jewelry and clothing store owners.²⁰ And research shows that the employment opportunities created by immigrant-owned businesses and immigration in general have a long-term beneficial effect on all U.S. workers, including U.S.-born wage earners.²¹

While immigration in general provides long-term economic benefits for cities, counties, and wage-earners, the implementation of the Executive Action also

¹⁹ Robert W. Fairlie, Partnership for a New American Economy, *Open for Business: How Immigrants are Driving Small Business Creation in the United States* 3 (August 2012), available at <http://www.renewoureconomy.org/sites/all/themes/pnae/openforbusiness.pdf>.

²⁰ Americas Society/Council of the Americas & Fiscal Policy Institute, *Bringing Vitality to Main Street: How Immigrant Small Businesses Help Local Economies Grow* 2 (January 2015), available at <http://fiscalpolicy.org/wp-content/uploads/2015/01/Bringing-Vitality-to-Main-Street.pdf>.

²¹ Heidi Shierholz, Econ. Policy Inst. Briefing Paper No. 255, *Immigration and Wages: Methodological Advancements Confirm Modest Gains for Native Workers* 19-20 (Feb. 4, 2010), available at <http://www.epi.org/files/page/-/bp255/bp255.pdf> (finding that between 1994 and 2007, immigration caused a 0.4 percent increase in wages for U.S.-born workers, relative to foreign-born workers); see also Gianmarco I.P. Ottaviano & Giovanni Peri, Nat’l Bureau of Econ. Research, *Rethinking the Effects of Immigration on Wages* 4 (2006, revised 2008), available at <http://www.nber.org/papers/w12497> (finding that U.S.-born workers’ wages increased 0.7 percent due to immigration between 1990 to 2004).

would create an immediate economic spark for those groups. On a national level, one study estimates that if 3.8 million people obtained work permits through the Executive Action, it would lead to a labor income increase of \$7.1 billion, which will result in more than \$2.6 billion in new tax revenue and the creation of more than 167,000 new jobs.²² Another study concludes that if 4.7 million people obtained work permits through the Executive Action, it would result in increased payroll tax revenues of \$2.87 billion in the first year and \$21.24 billion in the first five years of the program.²³ Moreover, providing work authorization to individuals covered by the Executive Action is certain to improve worker protections, minimizing wage theft and the loss in tax revenue from the wage theft.²⁴

The economic benefit of the Executive Action can be quantified on a local level as well. Taking New York City as an example, if, as some studies have found, an undocumented worker's wages increase by seven percent when he or she

²² Raul Hinojosa-Ojeda and Maksim Wynn, UCLA North American Integration and Development Center, *From the Shadows to the Mainstream: Estimating the Economic Impact of Presidential Administrative Action and Comprehensive Immigration Reform* 32 (Nov. 21, 2014), available at http://naid.ucla.edu/uploads/4/2/1/9/4219226/ucla_naid_center_report_-_estimating_the_economic_impact_of_presidential_administrative_action_and_comprehensive_immigration_reform.pdf.

²³ Patrick Oakford, Center for American Progress, *Administrative Action on Immigration Reform: The Fiscal Benefits of Temporary Work Permits* 9 (2014), available at <http://cdn.americanprogress.org/wp-content/uploads/2014/09/OakfordAdminRelief.pdf>.

²⁴ *Id.* at 5 (“The interaction between our broken immigration system and employment and labor laws have made undocumented workers more susceptible to exploitation in the workplace, leading them to earn lower wages than they otherwise could.”).

obtains authorization to work,²⁵ then an undocumented worker in New York City currently making \$3,200 a month—the average monthly wage for undocumented workers in New York state²⁶—is missing out on an average of \$224 every month in marginal wage gains that he or she would earn if the Executive Action were in place. If even only 100,000 undocumented workers in New York City who obtained temporary work authorization were taxed on their additional \$224 in earnings at 7.1 percent—the estimated effective tax rate for undocumented workers in New York state²⁷—then the state and the city would reap more than \$1.5 million *monthly* in marginal state and local tax revenue.²⁸ Certainly, a delay in the Executive Action’s implementation directly harms local economies and residents

²⁵ Raul Hinojosa-Ojeda and Maksim Wynn, *supra* n. ___, at 12 (table comparing income impact by legal status); *see also* Silva Mathema, Center for American Progress, *The High Costs of Delaying Executive Action on Immigration* (March 13, 2015), available at <https://www.americanprogress.org/issues/immigration/news/2015/03/13/108768/the-high-costs-of-delaying-executive-action-on-immigration> (estimating that work authorization increases earnings of an undocumented worker by nearly 8.5 percent).

²⁶ Institute on Taxation and Economic Policy, *Undocumented Immigrants’ State and Local Tax Contributions* 9 (July 2013), available at <http://www.itep.org/pdf/undocumentedtaxes.pdf> (estimating \$38,400 in annual income for average undocumented worker in New York state).

²⁷ *Id.* at 7.

²⁸ The number of individuals in New York City likely to be eligible for temporary work authorization under the Executive Action is likely to be far greater than 100,000 and is perhaps as high as 183,000. *See* Migration Policy Institute, *Unauthorized Immigrant Population Profiles: County Profiles* (2015), available at <http://www.migrationpolicy.org/programs/us-immigration-policy-program-data-hub/unauthorized-immigrant-population-profiles> (follow link to “County-Level Estimates on DACA & DAPA Populations,” estimating population eligible for expanded DACA and DAPA in New York City’s five counties—New York, Kings, Queens, the Bronx, and Richmond) (last visited Mar. ___, 2015).

by reducing the potential tax revenues for cities and counties, reducing the subsequent public spending and benefits that would come from that tax revenue, and limiting the increased economic activity that would result from additional income among immigrant households.

Past experience also suggests that the Executive Action will rapidly improve the economic outlook for many of the currently undocumented workers living in *amici*'s cities and counties. Studies tracking how the 2012 Deferred Action for Childhood Arrivals Program ("2012 DACA") affected young adults show marked progress for those individuals in several economic indicators. For instance, a survey of nearly 2,400 individuals who received 2012 DACA showed that within two years, almost 60 percent of beneficiaries obtained a new job, and 45 percent increased their salaries.²⁹ Further, 49 percent of those surveyed opened their first bank accounts within two years after receiving 2012 DACA, and 33 percent obtained their first credit card.³⁰

The Executive Action will similarly benefit a broad group of immigrants who already have significant ties to *amici*'s cities and counties and who already contribute economically in various ways. By formalizing the work status of

²⁹ Roberto Gonzales & Angie M. Bautista-Chavez, American Immigration Council, *Two Years and Counting: Assessing the Growing Power of DACA* 3 (June 2014), available at <http://www.immigrationpolicy.org/special-reports/two-years-and-counting-assessing-growing-power-daca>.

³⁰ *Id.*

hundreds of thousands of wage-earners, the Executive Action will increase wage levels and tax revenues in the *amici*'s jurisdictions. Preventing the immediate implementation of the Executive Action will have the opposite effect, depriving local governments and residents of these proven economic benefits. Such a result would be contrary to the public interest.

C. The Executive Action Will Promote Family Unity and Facilitate the Integration of Immigrant Residents in Cities Nationwide

The profound importance of family unity is codified in the nation's immigration laws³¹ and recognized as a protected liberty interest under the U.S. Constitution. *See, e.g., Moore v. City of East Cleveland*, 431 U.S. 494, 503 (1977) (“[O]ur decisions establish that the Constitution protects the sanctity of the family precisely because it is deeply rooted in the Nation’s history and tradition.”); *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (noting that “[t]he Court has frequently emphasized the importance of the family”). The *amici* mayors, county executives, and local governments have a strong interest in federal action that promotes family unity because a rupture in the family unit results in many potentially harmful outcomes that often fall to local governments to address, such

³¹ *See, e.g.,* 8 U.S.C. § 1254a(c)(2)(A)(ii) (allowing the Attorney General to find certain individuals eligible for Temporary Protected Status “for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest”); 8 U.S.C. § 1182(d)(11) (providing Attorney General with discretionary waiver of exclusion in certain circumstances, including to “assure family unity”); *Holder v. Martinez Gutierrez*, ___ U.S. ___, 132 S. Ct. 2011, 2019 (2012) (noting that “promoting family unity” is one of the goals that “underlie or inform many provisions of immigration law”).

as reduced household income, increased reliance on public benefits and services, increased occurrences of negative health consequences for children, and a greater likelihood of educational problems for children. Further, *amici* have a strong interest in the full integration of all residents, including immigrants, into the fabric of the community. The district court wrongly failed to consider any of these important public interests.

Delayed implementation of the Executive Action forces immigrant families in mixed-status households—households where some members are documented or U.S. citizens and some are undocumented—to live under an ongoing fear of deportation and separation from their loved ones.³² The plain reality is that families are routinely torn apart through the enforcement of the immigration laws. For instance, in New York City from 2005 to 2010, 87 percent of the parents of U.S. citizen children that federal immigration authorities apprehended were

³² An estimated 5.5 million U.S. citizen children live with an undocumented parent who is eligible for DAPA. See Manuel Pastor, *et al.*, University of Southern California Dornsife Center for the Study of Immigrant Integration, *The Kids Aren't Alright – But They Could Be: The Impact of Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) on Children* (March 2015), available at http://dornsife.usc.edu/assets/sites/731/docs/DAPA_Impact_on_Children_CSII_Brief_Final_01.pdf; see also Paul Taylor, *et al.*, Pew Research Center, *Unauthorized immigrants: Length of Residency, Patterns of Parenthood* (Dec. 1, 2011), available at <http://www.pewhispanic.org/2011/12/01/unauthorized-immigrants-length-of-residency-patterns-of-parenthood> (estimating that 9 million people live in mixed-status families that include at least one undocumented adult and one U.S.-born child).

deported,³³ and nationally 46,000 parents of citizen children were deported in the first six months of 2011 alone.³⁴

The broader community and local government, as well as immigrant families themselves, are harmed when deportation ruptures family unity. From a community and government perspective, the splitting of families through deportation results in direct financial costs. Children in single-parent households are more than four times as likely to live in poverty than are children with married parents,³⁵ and households that lose the family breadwinner due to immigration enforcement experience “steep declines” in income, housing instability, and food insufficiency, resulting in increased reliance on public benefits.³⁶ Deportations that split up families also cause increased stress upon already busy public service

³³ N.Y. Univ. School of Law Immigrant Rights Clinic, *Insecure Communities, Devastated Families: New Data on Immigrant Detention and Deportation Practices in New York City* 18 (2012), available at <http://immigrantdefenseproject.org/wp-content/uploads/2012/07/NYC-FOIA-Report-2012-FINAL.pdf>.

³⁴ Seth Freed Wessler, *U.S. Deports 46K Parents with Citizen Kids in Just Six Months*, Colorlines, Nov. 3, 2011, available at http://colorlines.com/archives/2011/11/shocking_data_on_parents_deported_with_citizen_children.html.

³⁵ Joanna Dreby, Center for American Progress, *How Today's Immigration Enforcement Policies Impact Children, Families, and Communities* 9 (August 2012), available at <http://cdn.americanprogress.org/wp-content/uploads/2012/08/DrebyImmigrationFamiliesFINAL.pdf>.

³⁶ Ajay Chaudry, et al., Urban Institute, *Facing Our Future: Children in the Aftermath of Immigration Enforcement* viii-ix (February 2010), available at http://www.urban.org/uploadedpdf/412020_FacingOurFuture_final.pdf at viii-ix (examining consequences of parental arrest, detention, and deportation on 190 children in 85 families in six locations in the U.S.).

systems, such as the foster care system. One study estimates that in 2011 there were 5,100 children in foster care nationwide whose parents had been either detained or deported,³⁷ placing increased strain upon local governments' foster care systems and on the child whose parents could no longer provide care and comfort.

From a family perspective, research has shown that children left behind after the deportation of a family member may experience a number of significant health setbacks and have a greater likelihood of struggling in school and even dropping out completely. For instance, interviews with a sample of children who had experienced separation from a parent within the last six months due to immigration detention found that in addition to approximately two-thirds of the children having trouble eating and sleeping, more than 40 percent were considered "anxious" or "withdrawn" and only slightly fewer were "angry or aggressive."³⁸ The same

³⁷ Seth Freed Wessler, Applied Research Center, *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System* 6 (November 2011), available at http://www.atlanticphilanthropies.org/sites/default/files/uploads/ARC_Report_Shattered_Families_FULL_REPORT_Nov2011Release.pdf.

³⁸ Chaudry, *et al.*, *supra* n. ___, at 41-42; *see also id.* at 41-53 (detailing short-term and long-term behavior changes among children who experienced separation from parents due to immigration enforcement); Kalina Brabeck, *et al.*, Report for the Inter-American Human Rights Court, *The Psychosocial Impact of Detention and Deportation on U.S. Migrant Children and Families* 5 (August 2013), available at <http://www.bc.edu/content/dam/files/centers/humanrights/doc/IACHR%20Report%20on%20Psychosocial%20Impact%20of%20Detention%20%20Deportation-FINAL%208-16-13.pdf> ("The physical separation between a parent and child, particularly when unexpected as in the case of deportation, disrupts the essential secure base, risking internalizing symptoms (depression,

study also reported instances where non-arrested parents were afraid to return their children to school after the arrest of one parent on immigration-related charges, while older students occasionally dropped out of school entirely to assist non-arrested parents or siblings.³⁹ The *amici* local governments have a significant public health interest in ensuring that all children in their communities – children of undocumented immigrants included – are healthy, educated, and able to participate in community life.

The implementation of the Executive Action will promote family well-being and children's health by offering stability and reassurance to the millions of children whose parents can apply for temporary relief from deportation through DAPA. This is a key benefit because studies show that children's health is negatively impacted simply by the *threat* that a close family member will be detained or deported. As the nation's immigration issues and policies are frequently discussed in the media and in immigrant communities, immigrant children and adults develop understandable fears about visiting public spaces and engaging with government and law enforcement officials.⁴⁰ Children of immigrants also begin to associate all immigrants with illegality and link their own

anxiety), externalizing behaviors (withdrawal, aggression), and social and cognitive difficulties.”).

³⁹ Chaudry, *et al.*, *supra* n. ___, at 49-50.

⁴⁰ Dreby, *supra* n. ___, at 21.

immigrant heritage with feelings of shame.⁴¹ The Executive Action will help address these ongoing negative impacts on family well-being and children's health; delay in implementation obstructs these much-needed social benefits to the detriment of cities and counties.⁴²

Amici have a strong interest in ensuring that all members of the community feel comfortable getting involved in local issues and community affairs, whether that means volunteering in local schools, participating in community board meetings, or simply interacting with their local governments. The Executive Action will increase civic engagement because, for those that qualify, it will remove the threat that interactions with school officials, law enforcement, and other local government officials will result in arrest or deportation.

Allowing the federal government to implement the Executive Action will help to prevent the splitting of families due to deportation and directly encourage greater immigrant participation in community life while this action is pending. For

⁴¹ *Id.* at 27-28; see also Max Ehrenfreund, *How having an undocumented parent hurts American children*, Wash. Post, March 4, 2015, <http://www.washingtonpost.com/blogs/wonkblog/wp/2015/03/04/how-having-an-undocumented-parent-hurts-american-children> (reporting on study of Los Angeles households that surveyed 2,535 children and determined that even young children of undocumented parents are aware of the risks of family separation and feel shame about their family's immigration status).

⁴² See Joanna Dreby, Center for American Progress, *Executive Action on Immigration will Help Children and Families* (March 3, 2015), available at <https://www.americanprogress.org/issues/immigration/news/2015/03/03/107769/executive-action-on-immigration-will-help-children-and-families/?elqTrackId=1728770977694509a243555a81ef9d2e&elqaid=24822&elqat=1> (emphasizing the toll that immigration system has on American families and the potential for improvement due to the Executive Action).

this reason, too, the preliminary injunction blocking implementation of the Executive Action is contrary to the public interest.

CONCLUSION

For the reasons set forth in this Brief, as well as those set forth by appellants and their other supporting *amici*, the district court's grant of a preliminary injunction should be reversed.

Respectfully submitted,

March __, 2015

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Los Angeles City Mayor Eric Garcetti



From: [Westergaard, Linda C.](#)
To: [Cownie, Frank](#); [Boesen, Connie S.](#); josh.citizensformandelbaum@gmail.com; [Gatto, Joe P.](#); [Coleman, Chris](#); [Gray, William S.](#); [Sanders, Scott E.](#)
Subject: FW: Annual Celebration
Date: Thursday, January 11, 2018 8:11:15 AM

The annual East/South East Des Moines Chamber banquet is February 8, 2018 at Baratta's Forte. I have purchased a table for 8 (I have belonged to the Chamber for many years and always purchase a table). Last year council members came and shared the table and it turned into a City of Des Moines Table.

Would anyone like to join this table on February 8? The cost would be \$50.00 per person. Just let me know. The link for the event is below.

Thank you,

Linda Westergaard
Ward 2 City Council Representative
4009 E. 23rd Street
Des Moines Iowa 50317-4104
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Lindaw@dmgov.org
<https://www.facebook.com/LindaWestergaardDMCityCouncil/>

From: lindaw@bhhsfirstrealty.com [mailto:lindaw@bhhsfirstrealty.com]
Sent: Thursday, January 11, 2018 7:59 AM
To: Linda Westergaard <lindaw@bhhsfirstrealty.com>
Subject: Annual Celebration

I thought you might like this web page about **Annual Celebration**. I found this page on the <http://www.dsmeastsouthchamber.org/> web site.

You can go directly to it by clicking on the following link: [Annual Celebration](#)

This email was sent on behalf of Des Moines East and South Chamber of Commerce by GrowthZone, 24400 Smiley RD Ste. 4, Nisswa, MN 56468. To unsubscribe [click here](#). If you have questions or comments concerning this email or GrowthZone services in general, please contact us by email at support@growthzone.com.



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From: [Sanders, Scott E.](#)
To: [Cownie, Frank](#)
Subject: FW: From Club President - Dave Maurer Wakonda Club
Date: Sunday, April 08, 2018 8:07:49 PM

Mayor,

For context on just some of the topics I have going with Linda. I believe you said you had the letter from Wakonda as well.

Scott

From: Sanders, Scott E.
Sent: Sunday, April 08, 2018 7:45 PM
To: Westergaard, Linda C.
Subject: RE: From Club President - Dave Maurer Wakonda Club

All are good policy topics for discussion. I have asked for information on slowing down our Ash removal/adoption program. I believe we will end up significantly delaying some of those costs. Street trees in the right of way are a long tradition in DSM.

The sidewalk question goes beyond just Complete streets. The neighborhoods have asked for sidewalks in many areas including Fleur for many years. I would suggest testing these policy changes with a couple other Councilmembers to see if there is a consensus. I will do the same.

As far as messaging our budget situation. I prefer to talk about having balanced budgets with the need for increases if we want to improve services like fixing our roads at a much faster pace and in a smarter way than what was done in the past. Or building a new fire station to cover the fastest growing area of the City outside of downtown. I could come up with a budget that simply "gets by" or survives without a rate increase. But, given the input I have received, I don't think a single Council person would be happy with service levels and CIP that remains.

I will have answers dealing with an amended budget very soon. But we are not "broke". We have strong reserves. We don't borrow for operations like our federal government and we don't steal funds from lower level governments to balance our budget like the State does; especially so the State can give a tax break on the income taxes they charge.

From: Westergaard, Linda C.
Sent: Sunday, April 08, 2018 6:57 PM
To: Sanders, Scott E.
Subject: RE: From Club President - Dave Maurer Wakonda Club

As broke as the city is, I am rethinking my position on complete streets. I am not going to support spending money on sidewalks the property owners do not want. If we had the money things would be different and perhaps there will come a time when the city has the money.

Also, I see more trees are getting marked in preparation of being removed. May we please rethink how we are handling the Ash tree removals. Let's look at an adopt a tree program. Why do we continue to plant trees in the parking and then the city is left to maintain the trees. I love trees but not on the parking.

Thank you,

Linda Westergaard
Ward 2 City Council Representative
4009 E. 23rd Street
Des Moines Iowa 50317-4104
[515-988-4288](tel:515-988-4288)
Lindaw@dmgov.org
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From: Sanders, Scott E. <SESanders@dmgov.org>
Sent: Sunday, April 8, 2018 6:15 PM
To: Linda Westergaard <lindaw@bhhsfirstrealty.com>
Subject: RE: From Club President - Dave Maurer Wakonda Club

Thanks, yes

We are looking into the trees and course redo and whether that is truly a consequence of the project.

From: Linda Westergaard [<mailto:lindaw@bhhsfirstrealty.com>]
Sent: Thursday, April 05, 2018 9:34 PM
To: Sanders, Scott E.
Subject: FW: From Club President - Dave Maurer Wakonda Club

Perhaps you have seen this but thought I would share it with you. This is what the membership is receiving.

Thank you,

Linda Westergaard
The Westergaard Group
Berkshire Hathaway HomeServices First Realty
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Become a fan on Facebook
www.facebook.com/thewestergaardgroup

From: Sara Hopkins <sara@sarahopkinsrealtor.com>
Sent: Wednesday, April 4, 2018 1:35 PM
To: Linda Westergaard <lindaw@bhhsfirstrealty.com>
Subject: FW: From Club President - Dave Maurer

See below.

Sara Hopkins| Realtor
RE/MAX Concepts
2203 Grand Ave, Des Moines 50312.

515.710.6030

[Website](#) | [Blog](#) | [Facebook](#) | [Follow Sara](#) | [Pinterest](#)

[Read what clients think of Sara](#)

Please note: New Email Address!

sara@sarahopkinsrealtor.com

Licensed to sell Real Estate in the state of Iowa

From: Wakonda Club <amandaw@wakondaclub.com>

Reply-To: Wakonda Club <reply_fcobai_dbgygwpr@mailclubhouseonline-e3.com>

Date: Wednesday, April 4, 2018 at 11:59 AM

To: Sara Hopkins <sara@sarahopkinsrealtor.com>

Subject: From Club President - Dave Maurer

Regarding potential City sidewalk project

Trouble viewing this email? [Read it online](#)



Wakonda Members,

Several months ago, Wakonda Club was notified by the City about a plan to build sidewalks on both sides of Fleur Drive, from Watrous Avenue to Gray's Lake. Since then, we have been assessing the various costs to the Club of such a plan and trying to determine the best way to proceed. The initial plan proposes taking approximately 3-5 feet along our western border for the sidewalk. This would require replacing the fence and hedge on that side, along with several other accommodations. We estimate at least five mature oaks would have to be removed; the cart path next to the No. 2 green would have to be reconfigured; and significant changes would have to be made to the back tee box on No. 3. The maintenance of the sidewalk would also be the Club's responsibility, and the liability for golf balls hit onto Fleur would likely increase significantly. There is also discussion of a bus stop canopy being placed close to the Club's main entrance. It is too early to accurately estimate the overall cost (both tangible and intangible) to the Club, but suffice to say, it would be significant. We would expect some costs would be reimbursed by the City, but it is doubtful it would come close to covering the total cost to the Club.

In response, we have hired an attorney to represent the Club in working with the City. The Board of Directors' initial hope was that as the plan progressed, the City would realize that the cost of such a project would not justify the expected benefits. However, the plan seems to be moving forward. With this in mind, the Board wanted to let the membership know ahead of any official City announcements or media reports that this project is being considered, probably beginning in 2019.

As a Club, Wakonda has always tried (and will continue its efforts) to be a good neighbor, and we have worked with the City on many occasions to help make necessary improvements in the past. We are certainly not against practical ways to improve Fleur Drive, but the Board simply questions their plan on how to do it. We will keep the membership informed as there are further developments.

If you have any thoughts or questions, please do not hesitate to reach out to the Board of Directors.



Dave Maurer

This email was intended for sara@sarahopkinsrealtor.com by Wakonda Club
3915 Fleur Drive | Des Moines | Iowa | 50321
[Update Preferences](#) | [Unsubscribe](#)

□

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From: Romer, Amanda M.
To: [Frank Cownie](#)
Cc: [Cownie, Frank](#)
Subject: FW: Mayor Garcetti's resolutions (U.S. Conf of Mayors-SF June 2015)
Date: Monday, May 18, 2015 8:51:53 AM
Attachments: [Garcetti-Summer Jobs for Youth \(USCM 2015\).docx](#)
[Garcetti-Federal Fair Chance Hiring \(USCM 2015\).docx](#)
[Garcetti-Citizenship Resolution \(USCM 2015\).docx](#)
[Garcetti - AFF TransportatioBonds Reso \(USCM 2015\).DOCX](#)
[Garcetti - PFC Reso \(USCM 2015\).docx](#)
[Garcetti - Freight - Port Resolution \(USCM 2015\).docx](#)

From: George Kivork [mailto:george.kivork@lacity.org]
Sent: Friday, May 15, 2015 3:13 PM
To: George Kivork
Cc: Cecilia Cabello; Intern IGR
Subject: Mayor Garcetti's resolutions (U.S. Conf of Mayors-SF June 2015)

Greetings Mayors' reps:

Making sure you'd seen the attached resolutions Los Angeles Mayor Eric Garcetti will submit at the 83rd annual meeting of the US Conference of Mayors in San Francisco in June.

The resolutions cover: (1) Citizenship; (2) Summer Jobs for Youth; (3) Smart Criminal Justice; (4) AFF transportation bonds, (5) Freight / port goods movement; and (6) airport Passenger Facility Charge.

If you have not yet done so, please do let me know if your mayor would like to join any as a co-sponsor by Monday at 12noon.

Summaries

Citizenship: urges the USCIS and DHS to make policy changes that will increase the number of U.S. citizens from the pool of eligible lawful permanent residents.

Smart Criminal Justice: supports the Obama Administration's drug policy reform goals to implement smart on crime approaches to divert individuals away from the criminal justice system, reduce incarceration, and make the system more effective and fair.

Summer Jobs: urges funding for year round youth activities and by ensuring that youth summer jobs are part of the Workforce Innovation and Opportunity Act strategy to close the skills gap and prepare the future workforce for good paying-high skilled jobs.

American Fast Forward: urges creation of a new category of qualified tax credit bonds for transportation to stimulate infrastructure investment of \$45 billion over 10 years, which the Grow America bonds were actually modelled after.

Passenger Facility Charge: supports raising the federal cap on the Passenger Facility Charge to permit local airports to raise additional dollars for modernization projects to meet the growing needs of and better serve the flying public.

Port / Freight & Goods Movement: urges Congress to increase investment in goods movement infrastructure and supports supply chain efficiency by dedicating federal funding for a multimodal national freight system and providing funding for a national freight infrastructure grant program.

Respectfully,
George

George Kivork
Federal Liaison
Office of Los Angeles Mayor Eric Garcetti
[202-714-9497](tel:202-714-9497)

Resolution No.

Submitted by:

The Honorable Eric Garcetti
Mayor of Los Angeles, CA

RESOLUTION FOR THE U.S. CONFERENCE OF MAYORS “SUMMER JOBS FOR YOUTH”

WHEREAS, The United States Conference of Mayors is committed to promoting the well-being and positive development of the nation’s youth; and

WHEREAS, the nation’s mayors have long advocated for strong summer jobs programs; and

WHEREAS, across the nation young people face an employment crisis; and the unemployment rate for young adults between the ages of 16 -19 is more than twice the national unemployment rate; and

WHEREAS, unemployment rates for African American youth is 27.5 percent and Latino youth is 18.9 percent; and

WHEREAS, the value of work experience for youth has been well documented, and national studies have demonstrated that youth employment has positive impacts on high school graduation rates, college-going rates, and future earnings; and

WHEREAS, summer jobs programs have the added benefit of reducing violence in cities and communities; and

WHEREAS, according to the Bureau of Labor Statistics, youth who miss out on an early work experience are more likely to endure future unemployment; and

WHEREAS, summer jobs programs provide teachable moments for youth receiving a paycheck to learn how to manage their finances; and

WHEREAS, many cities have invested local funds to match limited federal funding and conduct summer jobs programs; and

NOW, THEREFORE, BE IT RESOLVED, that The U.S. Conference of Mayors urges Congress to restore its long term commitment for a strong summer jobs program, by providing funding for year round youth activities and by ensuring that youth summer jobs are part of the Workforce Innovation and Opportunity Act (WIOA) strategy to close the skills gap and prepare the future workforce for good paying-high skilled jobs.

BE IT FURTHER RESOLVED, that The U.S. Conference of Mayors calls on business leaders to:

- Invest in workforce education and career exploration counseling for high school students; and
- Encourage employees to participate in workforce development programs available in high schools; and
- Work with education and local leaders to develop appropriate curriculum that is responsive to workforce trends; and
- Collaborate with state education and workforce leaders to identify high-growth job trends.

Projected Cost: \$1 billion

Resolution No.

Submitted by:

The Honorable Eric Garcetti
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SMART CRIMINAL JUSTICE ALTERNATIVES

WHEREAS, the President's National Drug Control Strategy outlines a public health and public safety approach to drug policy; and

WHEREAS, the Obama Administration is promoting a "smart on crime" approach using innovative criminal justice reforms including risk assessment tools, diversion programs, evidence-based community supervision models, in-custody treatment, and reentry services to break the cycle of drug use, crime, arrest, and incarceration; and

WHEREAS, the Affordable Care Act makes access to treatment a new reality for millions of Americans as it ends discrimination by requiring insurance companies to cover treatment for substance use disorders, expanding treatment and reentry services for those in the justice system and targeting expansion of care for populations with an unmet need for substance abuse treatment; and

WHEREAS, as demonstrated by passage of the Fair Sentencing Act and support of the Smarter Sentencing Act, the Administration is committed to revisiting mandatory minimum sentencing; and

WHEREAS, the Obama Administration, through its "Smart on Crime" Initiative, revised Federal charging policy and developed criteria for diverting individuals with federal non-violent drug offenses away from incarceration to community-based supervision, treatment, and other services; and

WHEREAS, drug courts are a proven alternative to incarceration for justice-involved individuals with substance use disorders and have been a model for the development of other types of front-end diversionary programs and strategies, such as drug market interventions, prosecutorial diversion, and community courts; and

WHEREAS, the Administration is making strides in eliminating barriers to reentry and recovery, addressing federal collateral consequences, providing treatment in federal reentry centers, and supporting reentry measures at the local level; and

WHEREAS, the Obama Administration is working with mayors across the country to stop the school-to-prison pipeline through several administration-wide initiatives such as My Brother's

Keeper, the National Youth Violence Prevention Forum, and the Zero Tolerance School Discipline project; and

WHEREAS, in an effort to address disproportions and instill fairness in the system, the Obama Administration has established a new initiative to encourage individuals incarcerated for federal non-violent drug offenses to seek clemency and has issued new guidelines for compassionate release,

NOW, THEREFORE, BE IT RESOLVED, that The United States Conference of Mayors encourages Mayors to support the Obama Administration's drug policy reform goals to implement smart on crime approaches to divert individuals away from the criminal justice system, reduce incarceration, and make the system more effective and fair.

Projected Cost: Unknown

Resolution No.

Submitted by:

The Honorable Eric Garcetti
Mayor of Los Angeles, CA

CITIZENSHIP NOW

WHEREAS, the United States has long attracted immigrants to its shore to find success and pursue the American Dream; and

WHEREAS, more U.S. cities are home to diverse populations, such as in Los Angeles where 40 percent of its residents are foreign-born and hail from more than 110 countries in search of opportunity; and

WHEREAS, nationally there are approximately 8.8 million immigrants currently eligible for citizenship, and the City of Los Angeles has one of the largest concentrations of lawful permanent residents in the country eligible for U.S. Citizenship; and

WHEREAS, immigrants strengthen the economy and are often driving force behind the creation and success of small business enterprises; and

WHEREAS, it has been found that citizenship increases the overall economic revenue for local municipal governments; and

WHEREAS, citizenship creates new economic opportunities and increased civic engagement; and

WHEREAS, the White House New Americans Task Force, with the input of Mayors, launched an initiative supporting civic engagement and naturalization education and outreach;

WHEREAS, the federal government has created a federal agency (USCIS) under the Department of Homeland Security to support naturalization efforts and to encourage naturalization in the form of local municipal partnerships; and

WHEREAS, it is in the interest of the federal government and specifically USCIS to reduce fees for citizenship applicants and to minimize barriers to naturalization by offering alternatives like a sliding-scale income based approach or family unit fee,

NOW, THEREFORE, BE IT RESOLVED, that The United States Conference of Mayors urges the USCIS and Department of Homeland Security to make policy changes that will increase the number of U.S. citizens from the pool of eligible lawful permanent residents.

Projected Cost: Unknown

Submitted by:

**The Honorable Eric Garcetti
Mayor, City of Los Angeles, CA**

SUPPORTING AMERICA FAST FORWARD TRANSPORTATION BONDS

WHEREAS, every \$1 billion of investment in the nation's transportation infrastructure supports 36,000 jobs, generates nearly \$500 million in federal, state, and local tax revenues, and confers significant benefits to cities, including supporting economic growth and goods movement; and improving quality of life by helping to alleviate traffic congestion; and

WHEREAS, the Highway Trust Fund has insufficient resources to maintain the current level of federal spending on surface transportation, much less help fund major new investment initiatives; and

WHEREAS, the fiscal and budget realities confronting the Administration and Congress require new innovative, targeted federal financing tools for transportation infrastructure that minimize impacts on the federal budget and maximize new job creation; and

WHEREAS, federal tax incentives can be a highly effective tool for encouraging private sector investment and, unlike direct federal spending, do not require growing the size of the federal government to administer them; and

WHEREAS, Congress has created over \$35 billion of qualified tax credit bonds with bipartisan support for a variety of sectors including: school construction, renewable energy, as well as forestry and energy conservation; and

WHEREAS, America Fast Forward Transportation Bonds would support the creation of a 21st century national surface transportation system by creating a new category of qualified tax credit bonds to stimulate investment in highways, transit, bridges, freight, and intermodal facilities; and

WHEREAS, America Fast Forward Transportation Bonds should enable a project sponsor to undertake substantially greater investments within a defined revenue stream for debt service payments than other borrowing approaches, such as traditional tax-exempt bonds; and

WHEREAS, America Fast Forward Bonds would generate at least 500,000 private sector jobs nationwide; and

WHEREAS, America Fast Forward Bonds have received support from hundreds of mayors across the country and diverse groups including, the National League of Cities, US Chamber of Commerce, Building America's Future, National Association of Regional Councils, National Association of Counties and others,

NOW, THEREFORE, BE IT RESOLVED, that The United States Conference of Mayors urges Congress to create a new category of qualified tax credit bonds for transportation to stimulate infrastructure investment, which would include:

- \$45 billion program over 10 years; and
- Federal government supports the interest cost by granting investors an annual tax credit, and the state and local issuer repays the principal with non-federal revenues; and
- 35 percent of the volume would be allocated to all states based on their proportion of the nation's population, and 65 percent would be allocated at the discretion of the Secretary of Transportation among projects; and
- Eligible projects would include: highways, bridges and tunnels; transit and intercity passenger bus or rail; and intermodal freight transfer facilities and private freight facilities conferring a public benefit.

Projected Cost: Approximately \$7.5 billion over 10 years

Submitted by:

The Honorable Eric Garcetti

Mayor, City of Los Angeles, CA

Modernization of Airports

WHEREAS, U.S. public airports are an indispensable component of America's infrastructure and are vital to the success of our Nation's \$1.2 trillion aviation industry and its over 10 million jobs; and

WHEREAS, Congress will soon be acting on legislation to reauthorize the Federal Aviation Administration (FAA) and this Nation's aviation infrastructure programs; and

WHEREAS, federal statute has for over 15 years capped the Passenger Facility Charge (PFC), a local user fee that may be collected by airports to invest in vital airport modernization projects; and

WHEREAS, modern, safe, secure and efficient airports are critical to our ability to attract international travelers, expand opportunities for American businesses and create jobs in our cities and states in an increasingly globalized economy; and

WHEREAS, air travel in the United States is projected to nearly double over the next 20 years, while FAA forecasts an annual \$2.2 billion shortfall to pay for the airport improvements needed to handle this growing traffic; and

WHEREAS, Congress last adjusted the federal cap on the local airport user fee to \$4.50 per departing passenger. Since that time, post-9/11 security needs, aging infrastructure, 15 years of inflation and record passenger numbers are stretching airport resources. The PFC now has about half the purchasing power that it did in 2000, while infrastructure needs are greater than ever. In 2014, the Skytrax survey of the world's airports found not one American airport listed among the world's 25 top rated; and

WHEREAS, lifting the PFC cap does not raise any costs for the federal budget, but it allows local government the option to raise billions of dollars for needed airport projects; and

WHEREAS, these billions of additional dollars will create tens of thousands of jobs across the country, spurring the construction, aviation and travel industries; and

WHEREAS, any airport that collects PFCs uses these fees based on local priorities to expand capacity, increase competition in air travel by building new gates for new entrant carriers, reduce travel delays and lines, and build modern infrastructure to support long term economic growth; and

NOW, THEREFORE, BE IT RESOLVED that the U.S. Conference of Mayors calls upon Congress to act now to raise the federal cap on the Passenger Facility Charge to permit local

airports to raise additional dollars for modernization projects to meet the growing needs of and better serve the flying public.

Resolution No. _____
The Honorable _____
Mayor of _____

**SUPPORT FOR INCREASED INVESTMENT IN GOODS MOVEMENT
INFRASTRUCTURE**

WHEREAS, exports accounted for 27 percent of overall economic growth between 2008 and 2014, and in 2014 they officially passed the \$2 trillion mark for the first time; and

WHEREAS, the U.S. transportation system moves more than 52 million tons of goods, worth nearly \$46 billion, each day, the equivalent of 40 tons of freight per person per year; and

WHEREAS, freight tonnage is expected to increase by 62 percent by the year 2040, requiring additional capacity across virtually every mode of transportation; and

WHEREAS, over 44 million American jobs are directly dependent on freight transportation; and

WHEREAS, every metropolitan area is now part of the global economy making investment in goods movement infrastructure essential for the United States to remain economically competitive; and

WHEREAS, metropolitan areas accounted for 85.5 percent of exports and drove 90.1 percent of export-related growth from 2008 to 2014; and

WHEREAS, the Obama Administration included \$18 billion over six years for a multi-modal freight program as part of its transportation reauthorization proposal known as the GROW AMERICA Act; and

WHEREAS, the findings and recommendations released by the bipartisan House Transportation & Infrastructure Committee Panel on 21st Century Freight call for "robust public investment" for all transportation modes related to freight and urged the development of a "comprehensive national freight policy" as well as the designation of a "national, multimodal freight network";

WHEREAS, the bipartisan leaders of the Senate Committee on Environment and Public Works and the Senate Committee on Commerce, Science, and Transportation have also recognized the important role of freight infrastructure investment and supply chain efficiency; and

NOW THEREFORE BE IT RESOLVED that the U.S. Conference of Mayors commends federal efforts to boost the freight sector and urges Congress to pass a long-term transportation reauthorization bill that increases investment in goods movement infrastructure and supports supply chain efficiency by dedicating federal funding for a multimodal national freight system; prioritizing funding for key metro corridors and gateways; and providing funding for a national freight infrastructure grant program, open to metros and port authorities, allocated on a competitive basis using performance-based project selection criteria to prioritize projects that

improve system performance (e.g., efficiency, safety, and resilience) and reduce environmental impacts, especially through use of advanced technologies.

From: Romer, Amanda M.
To: [Frank Cownie](#)
Cc: [T.m. Franklin Cownie \(fcownie@dm.gov\)](mailto:fcownie@dm.gov)
Subject: FW: Mayor Garcetti's resolutions (U.S. Conf of Mayors-SF June 2015)
Date: Monday, May 18, 2015 8:51:00 AM
Attachments: [Garcetti-Summer Jobs for Youth \(USCM 2015\).docx](#)
[Garcetti-Federal Fair Chance Hiring \(USCM 2015\).docx](#)
[Garcetti-Citizenship Resolution \(USCM 2015\).docx](#)
[Garcetti - AFF TransportatioBonds Reso \(USCM 2015\).DOCX](#)
[Garcetti - PFC Reso \(USCM 2015\).docx](#)
[Garcetti - Freight - Port Resolution \(USCM 2015\).docx](#)

From: George Kivork [mailto:george.kivork@lacity.org]
Sent: Friday, May 15, 2015 3:13 PM
To: George Kivork
Cc: Cecilia Cabello; Intern IGR
Subject: Mayor Garcetti's resolutions (U.S. Conf of Mayors-SF June 2015)

Greetings Mayors' reps:

Making sure you'd seen the attached resolutions Los Angeles Mayor Eric Garcetti will submit at the 83rd annual meeting of the US Conference of Mayors in San Francisco in June.

The resolutions cover: (1) Citizenship; (2) Summer Jobs for Youth; (3) Smart Criminal Justice; (4) AFF transportation bonds, (5) Freight / port goods movement; and (6) airport Passenger Facility Charge.

If you have not yet done so, please do let me know if your mayor would like to join any as a co-sponsor by Monday at 12noon.

Summaries

Citizenship: urges the USCIS and DHS to make policy changes that will increase the number of U.S. citizens from the pool of eligible lawful permanent residents.

Smart Criminal Justice: supports the Obama Administration's drug policy reform goals to implement smart on crime approaches to divert individuals away from the criminal justice system, reduce incarceration, and make the system more effective and fair.

Summer Jobs: urges funding for year round youth activities and by ensuring that youth summer jobs are part of the Workforce Innovation and Opportunity Act strategy to close the skills gap and prepare the future workforce for good paying-high skilled jobs.

American Fast Forward: urges creation of a new category of qualified tax credit bonds for transportation to stimulate infrastructure investment of \$45 billion over 10 years, which the Grow America bonds were actually modelled after.

Passenger Facility Charge: supports raising the federal cap on the Passenger Facility Charge to permit local airports to raise additional dollars for modernization projects to meet the growing needs of and better serve the flying public.

Port / Freight & Goods Movement: urges Congress to increase investment in goods movement infrastructure and supports supply chain efficiency by dedicating federal funding for a multimodal national freight system and providing funding for a national freight infrastructure grant program.

Respectfully,
George

George Kivork
Federal Liaison
Office of Los Angeles Mayor Eric Garcetti
[202-714-9497](tel:202-714-9497)

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Submitted by:

The Honorable Eric Garcetti
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RESOLUTION FOR THE U.S. CONFERENCE OF MAYORS “SUMMER JOBS FOR YOUTH”

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WHEREAS, the nation’s mayors have long advocated for strong summer jobs programs; and

WHEREAS, across the nation young people face an employment crisis; and the unemployment rate for young adults between the ages of 16 -19 is more than twice the national unemployment rate; and

WHEREAS, unemployment rates for African American youth is 27.5 percent and Latino youth is 18.9 percent; and

WHEREAS, the value of work experience for youth has been well documented, and national studies have demonstrated that youth employment has positive impacts on high school graduation rates, college-going rates, and future earnings; and

WHEREAS, summer jobs programs have the added benefit of reducing violence in cities and communities; and

WHEREAS, according to the Bureau of Labor Statistics, youth who miss out on an early work experience are more likely to endure future unemployment; and

WHEREAS, summer jobs programs provide teachable moments for youth receiving a paycheck to learn how to manage their finances; and

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Projected Cost: \$1 billion

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SMART CRIMINAL JUSTICE ALTERNATIVES

WHEREAS, the President's National Drug Control Strategy outlines a public health and public safety approach to drug policy; and

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WHEREAS, the Affordable Care Act makes access to treatment a new reality for millions of Americans as it ends discrimination by requiring insurance companies to cover treatment for substance use disorders, expanding treatment and reentry services for those in the justice system and targeting expansion of care for populations with an unmet need for substance abuse treatment; and

WHEREAS, as demonstrated by passage of the Fair Sentencing Act and support of the Smarter Sentencing Act, the Administration is committed to revisiting mandatory minimum sentencing; and

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WHEREAS, the Administration is making strides in eliminating barriers to reentry and recovery, addressing federal collateral consequences, providing treatment in federal reentry centers, and supporting reentry measures at the local level; and

WHEREAS, the Obama Administration is working with mayors across the country to stop the school-to-prison pipeline through several administration-wide initiatives such as My Brother's

Keeper, the National Youth Violence Prevention Forum, and the Zero Tolerance School Discipline project; and

WHEREAS, in an effort to address disproportions and instill fairness in the system, the Obama Administration has established a new initiative to encourage individuals incarcerated for federal non-violent drug offenses to seek clemency and has issued new guidelines for compassionate release,

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Projected Cost: Unknown

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CITIZENSHIP NOW

WHEREAS, the United States has long attracted immigrants to its shore to find success and pursue the American Dream; and

WHEREAS, more U.S. cities are home to diverse populations, such as in Los Angeles where 40 percent of its residents are foreign-born and hail from more than 110 countries in search of opportunity; and

WHEREAS, nationally there are approximately 8.8 million immigrants currently eligible for citizenship, and the City of Los Angeles has one of the largest concentrations of lawful permanent residents in the country eligible for U.S. Citizenship; and

WHEREAS, immigrants strengthen the economy and are often driving force behind the creation and success of small business enterprises; and

WHEREAS, it has been found that citizenship increases the overall economic revenue for local municipal governments; and

WHEREAS, citizenship creates new economic opportunities and increased civic engagement; and

WHEREAS, the White House New Americans Task Force, with the input of Mayors, launched an initiative supporting civic engagement and naturalization education and outreach;

WHEREAS, the federal government has created a federal agency (USCIS) under the Department of Homeland Security to support naturalization efforts and to encourage naturalization in the form of local municipal partnerships; and

WHEREAS, it is in the interest of the federal government and specifically USCIS to reduce fees for citizenship applicants and to minimize barriers to naturalization by offering alternatives like a sliding-scale income based approach or family unit fee,

NOW, THEREFORE, BE IT RESOLVED, that The United States Conference of Mayors urges the USCIS and Department of Homeland Security to make policy changes that will increase the number of U.S. citizens from the pool of eligible lawful permanent residents.

Projected Cost: Unknown

Submitted by:

**The Honorable Eric Garcetti
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SUPPORTING AMERICA FAST FORWARD TRANSPORTATION BONDS

WHEREAS, every \$1 billion of investment in the nation's transportation infrastructure supports 36,000 jobs, generates nearly \$500 million in federal, state, and local tax revenues, and confers significant benefits to cities, including supporting economic growth and goods movement; and improving quality of life by helping to alleviate traffic congestion; and

WHEREAS, the Highway Trust Fund has insufficient resources to maintain the current level of federal spending on surface transportation, much less help fund major new investment initiatives; and

WHEREAS, the fiscal and budget realities confronting the Administration and Congress require new innovative, targeted federal financing tools for transportation infrastructure that minimize impacts on the federal budget and maximize new job creation; and

WHEREAS, federal tax incentives can be a highly effective tool for encouraging private sector investment and, unlike direct federal spending, do not require growing the size of the federal government to administer them; and

WHEREAS, Congress has created over \$35 billion of qualified tax credit bonds with bipartisan support for a variety of sectors including: school construction, renewable energy, as well as forestry and energy conservation; and

WHEREAS, America Fast Forward Transportation Bonds would support the creation of a 21st century national surface transportation system by creating a new category of qualified tax credit bonds to stimulate investment in highways, transit, bridges, freight, and intermodal facilities; and

WHEREAS, America Fast Forward Transportation Bonds should enable a project sponsor to undertake substantially greater investments within a defined revenue stream for debt service payments than other borrowing approaches, such as traditional tax-exempt bonds; and

WHEREAS, America Fast Forward Bonds would generate at least 500,000 private sector jobs nationwide; and

WHEREAS, America Fast Forward Bonds have received support from hundreds of mayors across the country and diverse groups including, the National League of Cities, US Chamber of Commerce, Building America's Future, National Association of Regional Councils, National Association of Counties and others,

NOW, THEREFORE, BE IT RESOLVED, that The United States Conference of Mayors urges Congress to create a new category of qualified tax credit bonds for transportation to stimulate infrastructure investment, which would include:

- \$45 billion program over 10 years; and
- Federal government supports the interest cost by granting investors an annual tax credit, and the state and local issuer repays the principal with non-federal revenues; and
- 35 percent of the volume would be allocated to all states based on their proportion of the nation's population, and 65 percent would be allocated at the discretion of the Secretary of Transportation among projects; and
- Eligible projects would include: highways, bridges and tunnels; transit and intercity passenger bus or rail; and intermodal freight transfer facilities and private freight facilities conferring a public benefit.

Projected Cost: Approximately \$7.5 billion over 10 years

Submitted by:

The Honorable Eric Garcetti

Mayor, City of Los Angeles, CA

Modernization of Airports

WHEREAS, U.S. public airports are an indispensable component of America's infrastructure and are vital to the success of our Nation's \$1.2 trillion aviation industry and its over 10 million jobs; and

WHEREAS, Congress will soon be acting on legislation to reauthorize the Federal Aviation Administration (FAA) and this Nation's aviation infrastructure programs; and

WHEREAS, federal statute has for over 15 years capped the Passenger Facility Charge (PFC), a local user fee that may be collected by airports to invest in vital airport modernization projects; and

WHEREAS, modern, safe, secure and efficient airports are critical to our ability to attract international travelers, expand opportunities for American businesses and create jobs in our cities and states in an increasingly globalized economy; and

WHEREAS, air travel in the United States is projected to nearly double over the next 20 years, while FAA forecasts an annual \$2.2 billion shortfall to pay for the airport improvements needed to handle this growing traffic; and

WHEREAS, Congress last adjusted the federal cap on the local airport user fee to \$4.50 per departing passenger. Since that time, post-9/11 security needs, aging infrastructure, 15 years of inflation and record passenger numbers are stretching airport resources. The PFC now has about half the purchasing power that it did in 2000, while infrastructure needs are greater than ever. In 2014, the Skytrax survey of the world's airports found not one American airport listed among the world's 25 top rated; and

WHEREAS, lifting the PFC cap does not raise any costs for the federal budget, but it allows local government the option to raise billions of dollars for needed airport projects; and

WHEREAS, these billions of additional dollars will create tens of thousands of jobs across the country, spurring the construction, aviation and travel industries; and

WHEREAS, any airport that collects PFCs uses these fees based on local priorities to expand capacity, increase competition in air travel by building new gates for new entrant carriers, reduce travel delays and lines, and build modern infrastructure to support long term economic growth; and

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airports to raise additional dollars for modernization projects to meet the growing needs of and better serve the flying public.

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The Honorable _____
Mayor of _____

**SUPPORT FOR INCREASED INVESTMENT IN GOODS MOVEMENT
INFRASTRUCTURE**

WHEREAS, exports accounted for 27 percent of overall economic growth between 2008 and 2014, and in 2014 they officially passed the \$2 trillion mark for the first time; and

WHEREAS, the U.S. transportation system moves more than 52 million tons of goods, worth nearly \$46 billion, each day, the equivalent of 40 tons of freight per person per year; and

WHEREAS, freight tonnage is expected to increase by 62 percent by the year 2040, requiring additional capacity across virtually every mode of transportation; and

WHEREAS, over 44 million American jobs are directly dependent on freight transportation; and

WHEREAS, every metropolitan area is now part of the global economy making investment in goods movement infrastructure essential for the United States to remain economically competitive; and

WHEREAS, metropolitan areas accounted for 85.5 percent of exports and drove 90.1 percent of export-related growth from 2008 to 2014; and

WHEREAS, the Obama Administration included \$18 billion over six years for a multi-modal freight program as part of its transportation reauthorization proposal known as the GROW AMERICA Act; and

WHEREAS, the findings and recommendations released by the bipartisan House Transportation & Infrastructure Committee Panel on 21st Century Freight call for "robust public investment" for all transportation modes related to freight and urged the development of a "comprehensive national freight policy" as well as the designation of a "national, multimodal freight network";

WHEREAS, the bipartisan leaders of the Senate Committee on Environment and Public Works and the Senate Committee on Commerce, Science, and Transportation have also recognized the important role of freight infrastructure investment and supply chain efficiency; and

NOW THEREFORE BE IT RESOLVED that the U.S. Conference of Mayors commends federal efforts to boost the freight sector and urges Congress to pass a long-term transportation reauthorization bill that increases investment in goods movement infrastructure and supports supply chain efficiency by dedicating federal funding for a multimodal national freight system; prioritizing funding for key metro corridors and gateways; and providing funding for a national freight infrastructure grant program, open to metros and port authorities, allocated on a competitive basis using performance-based project selection criteria to prioritize projects that

improve system performance (e.g., efficiency, safety, and resilience) and reduce environmental impacts, especially through use of advanced technologies.

From: David Adelman
To: ausahobart@gmail.com; b.potter@cedar-rapids.org; balesq@cityofdubuque.org; bkindred@city.ames.ia.us; bob@rescottco.com; bobanncamp@aol.com; bpadmore@sioux-city.org; buck.clark@waterloo-ia.org; ctm@ci.davenport.ia.us; ctymgr@cityofdubuque.org; d.stalkfleet@cedar-rapids.org; David Adelman; dgross@councilbluffs-ia.gov; dustinmiller@iowaleague.org; fcownie@mac.com; gaer.steve@rrrealty.com; geoff-fruin@iowa-city.org; j.pomeranz@cedar-rapids.org; jamesf@cedar-rapids.org; Lester, Jeffrey D.; Warburton, Joyce M.; justin.shields@cedar-rapids.org; keradig@cableone.net; Reindl, Kandi P.; kradig@homfurniture.com; kristy.henning@wdm-ia.com; larry@llmurphy.com; magodwin@dmgov.org; marian-karr@iowa-city.org; matsongohawks@msn.com; matt-hayek@iowa-city.org; mayorgluba@ci.davenport.ia.us; michelle.weidner@waterloo-ia.org; McCroskey, Monica J.; muhl@sioux-city.org; mwalsh@councilbluffs-ia.gov; psmall@ci.davenport.ia.us; r.corbett@cedar-rapids.org; Clark, Richard A.; rbwade@justice.com; rdbuol@cityofdubuque.org; rgehl@cityofdubuque.org; ron@roncorbett.com; sblevins@sioux-city.org; Sanders, Scott E.; sgwiasda@city.ames.ia.us; sschainer@city.ames.ia.us; teri53@aol.com; tgoodman@cityofdubuque.org; tom-markus@iowa-city.org; tomwcope@msn.com; Romer, Amanda M.; a.charipar@cedar-rapids.org; Art Hill; Corri Spiegel; Cownie, Frank; Gary Grant; Mark Lambert; Mike Collett; Robert Palmer; Simon Andrew; Tom Hadden; Wendy Schultz
Subject: FW: Metro Coalition Items
Date: Thursday, October 08, 2015 7:22:45 PM
Attachments: [IMLA Body Cam Article.PDF](#)
[ML-May-June 2015 FINAL JUNE 16 2015.pdf](#)

Metro Members-

Attached are two documents and a link Dustin from the League wanted to send as a follow up to our meeting in Cedar Rapids. Thanks Dustin

David

From: Dustin J. Miller [<mailto:DustinMiller@iowaleague.org>]
Sent: Thursday, October 08, 2015 3:11 PM
To: David Adelman <dadelman@cgroup.com>
Subject: Metro Coalition Items

Sorry for the delayed follow-up but here are the items I promised I would send across.

1. Body Camera Article – Attached
2. PAAB Dockets for 2013-2015 <https://paab.iowa.gov/local-governments/docket-list>
3. IMLA Article on Right to Assist – May-June Article Attached

Thanks,

Dustin J. Miller

General Counsel

Iowa League of Cities

Cell: (515) 883-0925

Iowa League of Cities | 500 SW 7th St, Suite 101 | Des Moines, IA 50309

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Rising From Ferguson: Body Cams to the Rescue?

By Nathan N. LaCoursiere and Terri Lehr, Assistant City Attorneys, Duluth, Minnesota



Introduction

On December 1, 2014, in the wake of widespread protests and racial unrest following the deaths of Michael Brown in Ferguson, Missouri, Tamir Rice in Cleveland, Ohio, and Eric Garner in Staten Island, New York, President Obama announced a \$263 million effort to quiet simmering tensions between law enforcement and communities of color throughout the country.¹ A key component of the plan includes \$75 million for the purchase and deployment of 50,000 police body cameras.

The President's announcement signifies that body cameras are here to stay. Well before recent events, several Minnesota police departments were testing and deploying body cameras. Burnsville was the first city to deploy cameras in 2010. Duluth now has 103 patrol officers

equipped with mobile video recording devices or "MVRs," making it the single largest user of body cameras in the state. Now Minneapolis – with the largest police force in Minnesota – is field testing 40 cameras, and the city hopes to equip all officers with MVRs by the end of 2015.² Several other cities, from Rochester to the Iron Range, are currently testing or deploying body cameras.

Officers in Duluth, Minneapolis, Burnsville and other departments around the country report positive experiences using this new technology. For city attorneys and staff, however, body cameras generate a host of new legal, technical and financial challenges. The Minnesota Legislature has yet to consider amendments to the Minnesota Government Data Practices Act clarifying proper classification of body cam

footage obtained by police in a variety of different public and private settings. Given the broader application and reach of body-worn cameras compared to dashboard cams, city attorneys must draft new policies that satisfy a variety of competing interests related to body cam use (evidence preservation, personnel privacy considerations, public access). City and court legal staff are also battling to adapt and stay on top of the tidal wave of new electronic data being created by round-the-clock police use of body cameras. This technology is proving quick to deploy with the assistance of large third-party vendors such as Taser, but city legal staff and courts generally have less funding and resources available to adapt at an equivalent rate of speed.

The purpose of this article is to introduce this significant and rapidly emerging trend, highlight the challenges city attorneys face in implementing body-worn camera programs, and steer readers toward useful resources and sample body cam policies for further study. The law related to body cam use will develop and grow rapidly in the coming years – state legislatures and courts are just beginning to consider the delicate balance between public safety needs and personal privacy rights as it relates to this issue. The only certainty is this: given reports indicating substantial reductions in use-of-force incidents and police complaints following deployment of body cameras, along with the federal government's increased support for their use, body cameras could well be arriving in your jurisdiction soon.

II. The Case For MVRs – Why Police Departments Throughout The Country Are Increasingly Turning To Body Cameras

"Whenever you do a thing, act as if all the world were watching."

–Thomas Jefferson

The import of Jefferson's famous advice is easily understood because it rests on a commonly noted attribute of human behavior – people act better on camera (in other words, they behave better when they think others are watching). Indeed, in one study, simply placing a picture of a pair of eyes on an "hon-

esty box” in a university break room resulted in people unwittingly contributing nearly three times as much for their coffee.³ Lawyers are acutely aware of this phenomenon. What attorney has not seen another lawyer or witness transform from an ogre into the most charming person in the world upon entrance of the judge or jury?

It is perhaps this trait more than any other that is leading police departments across the country to rapidly test and equip officers with body cameras. The oft-cited 2012 study of the Rialto (California) Police Department found a 60 percent reduction in use-of-force incidents and an 88 percent reduction in citizen complaints following camera deployment.⁴ A 2012 pilot program in Mesa, Arizona, reported similar results. Over the course of one year, 50 officers were assigned cameras and another 50 in a control group were not. The two groups were similar in age and race. During the first eight months of deployment, officers without cameras generated almost three times as many citizen complaints. By contrast, officers wearing cameras generated 40 percent fewer total complaints – and 75 percent less use-of-force complaints.⁵

Police chiefs overseeing MVR deployments across the country consistently report that citizen complaints drop significantly following body cam deployment. These chiefs encourage officers to notify citizens as soon as possible that their interactions are being recorded. As one chief put it, “everyone is on their best behavior when the cameras are running. The officers, the public – everyone.”⁶

However not everyone is convinced of the efficacy of body cameras. One author concluded that “[t]here is little evidence regarding most of the perceived benefits and drawbacks of the technology . . . little is known about . . . whether the technology increases trust, legitimacy, and transparency of the police.”⁷ The author concluded that “the privacy implications of body-worn cameras, for both citizens and police officers, are not clearly understood; [d]epartments considering . . . cameras should proceed cautiously.”

Nevertheless, the bulk of the research and reports agree that body cameras improve police practices, accountability and

Even the ACLU – generally an opponent of increased government surveillance – expresses support for body-worn cameras as a tool for checking potential police misconduct and encouraging openness and trust in community policing.

transparency. Even the ACLU – generally an opponent of increased government surveillance – expresses support for body-worn cameras as a tool for checking potential police misconduct and encouraging openness and trust in community policing. The ACLU urges caution, however, regarding the potential for body cameras to infringe on privacy rights, particularly where officers gather footage following entry into private homes.⁸ Such privacy concerns foreshadow the major battle on the horizon as body cam use grows.

III. Data Practices – A Privacy Firestorm Is Approaching

The most serious and pressing issue surrounding MVR deployment in Minnesota – and no doubt around the country – is the question of whether and to what extent state legislatures will craft protections limiting public access to body cam footage. In the wake of recent events in Duluth, the stage has been set for a data practices showdown during the current and next legislative sessions in Minnesota.

At around 4 a.m. on Monday, August 11, 2014, Duluth police officers responded to a report of a domestic disturbance. The city had recently deployed body cameras, and several of the officers were wearing their recorders. On arrival, they found a suicidal man threatening to kill himself. He had cut himself with a large knife and barricaded himself in a room in the home. Officers observed a substantial amount of blood seeping under the door and believed that, if the man did not receive medical attention quickly, he would die. They announced their intention to open the door. A veteran K-9 officer took the lead. As the officer and his K-9 partner entered, he repeatedly ordered the man to drop the knife and attempted to

disarm him. The man slashed with the weapon. The officer fired his sidearm twice, then immediately began to render medical assistance. The knife-wielding man survived the incident.

Media immediately requested release of the videos. In light of a notice of potential civil litigation, the city declined to release the videos pursuant to Minnesota’s Data Practices Act. The city further noted the unclear classification of the data under state law and the need for further direction from the Department of Administration, the agency responsible for overseeing the Data Practices Act.

On December 16, 2014, Duluth applied to the Department of Administration for temporary classification of body cam data as private or protected nonpublic information until further guidance could be issued by the Legislature. The Department quickly rejected the application and indicated that the Legislature would be the necessary forum to resolve the complex data practices and personal privacy questions presented.

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Nathan LaCoursiere is an Assistant City Attorney in the Civil Division of the Duluth City Attorney’s Office handling affirmative and defensive civil litigation and planning, zoning and development matters. He was recently recognized as one of *Minnesota Lawyer’s* 2014 “Up and Coming Attorneys” for his role in prosecuting public nuisance actions arising out of synthetic drugs in downtown Duluth. He received his J.D., *magna cum laude*, from the University of Minnesota Law School



Terri Lehr is an Assistant City Attorney in the Civil Division of the Duluth City Attorney’s Office. In counseling the police department on body cam issues, Ms. Lehr brings a breadth of experience following eight years of service as a city prosecutor and four years advising the police department on a host of contract, policy, data practices, and forfeiture-related matters. Ms. Lehr holds a J.D. from the William Mitchell College of Law.

In the wake of the Department's refusal to consider Duluth's application, proper classification of body-camera footage under the Data Practices Act remains in limbo. Certain questions are easy to answer – for example, the identities of undercover officers or informants are always confidential, as are the identities of child victims of abuse. But officers are obtaining footage in a variety of potentially sensitive public and private settings – hospitals, treatment centers, private homes.

As if confusion and uncertainty did not already reign, Duluth and Minneapolis have now received data practices requests for *all* body camera footage in their possession. In Duluth's case, a requestor named "Jah Love" has requested via email "[a]ny and all Duluth Police Department body cam videos." Duluth has had over 100 cameras in the field gathering data around the clock for months. The enormous financial and staff costs and burdens of such broad-reaching requests threaten to sink body-cam programs in Minnesota and around the country before they start. If state legislatures do not act quickly to address classification of data created by this new technology, the debate over the potential benefits of body-worn cameras to improve community policing, transparency and trust will be a moot discussion. Few if any departments will have the resources to satisfy data practices requests, and other departments around the country have already terminated their programs as a result.⁹

It is too early to tell how Minnesota's legislature will address these questions. In the words of Twin Cities media attorney Mark Anfinson, however, it seems clear that the State is in for a "knockdown, drag-out battle at the Capitol." How the Legislature chooses to walk the line between public safety needs and personal privacy rights may well decide whether body cameras become a regular part of community policing throughout Minnesota, or whether MVR use will be limited to a handful

of larger departments with the resources to handle the data practices burdens and costs associated with their use.

IV. Policies – Implementing A Body Cam Program

Another challenge facing city attorneys is the need to craft body cam policies that satisfy a variety of competing interests related to body cam use: the evidence preservation needs of prosecutors, defendants, and a city's civil defense team; the rights of the public to certain forms of data; police personnel and privacy needs; technical limitations of body cam systems, etc.

As just one example of the challenges of crafting an effective policy, many proponents of body cameras urge departments to keep cams on at all times to maximize transparency and build trust in community policing. City attorneys are also inclined to advise officers to err on the side of keeping cameras rolling to avoid later claims that key information or evidence is lost or missing (a gift to defense attorneys or plaintiffs in Section 1983 actions).

As a practical matter, however, officers need to retain discretion to start and stop cameras for a variety of reasons in a variety of different settings. Most understand that personnel privacy, department security, and general professional police needs require that cameras stay off inside headquarters, during meetings, bathroom breaks, etc. There are other times when officers, in their discretion or as a mandatory matter of state law, need to turn off cameras, such as when they meet with undercover officers or interview child victims of abuse or assault.

There are also innocent technical challenges associated with keeping cameras on at all times. Creating and storing video footage from department-wide, round-the-clock patrols creates an enormous amount of data that must be stored, categorized, and potentially retrieved at a later date – all of which costs a significant amount of money for data storage or the hiring and training of technical staff. Further, Duluth police are finding that new camera batteries last roughly 10 hours during regular use, meaning most officers need to step away from police work during long shifts to recharge cameras if they are constantly rolling. Accordingly, Du-

luth's policy – and many of the other policies developed around the country – go to great lengths to provide guidance regarding instances in which cameras should be turned on or off.¹⁰

Given the relative infancy of body cam use in the field, there is little state statutory or common law guidance regarding "best practices" for body cam policies. Fortunately, the Department of Justice, police advocacy groups, and an increasing number of large police departments around the country have created initial policies to help guide other cities as body-cam use grows. Links to several of these policies are provided at the end of this article.

V. From The Streets To The Stand - Body Cams Take Center Stage

Perhaps even more dramatic than the impact of body cameras on community policing is the potential for body cameras to radically change courtroom dynamics, case presentation, and bottom-line liability for cities.

In recent years, use of technology in the courtroom has increased at a rapid pace. These changes are being fueled by state and federal court efforts to achieve completely electronic case filing and management. Accompanying the push to go paperless, courtrooms are adding the tools necessary to facilitate electronic case presentation. These are not just "feel good" or environmentally friendly changes. Tech evolution in the courtroom is necessary to keep pace with the manner in which most Americans obtain their news and information every day. Fill a jury box in 2015, and it is a safe bet that most of the jurors – of all ages and from the lowest wage earner to the top – are familiar with using an iPhone, iPad or other electronic device to communicate with friends and family, watch their favorite legal drama, upload pictures and videos of grandkids, and so on.

When these jurors arrive at the courthouse to fulfill their civic duty, woe to the lawyer who fails to understand or satisfy their expectation for technically seamless presentation of evidence and exhibits. In February 2013, closing arguments proceeded in the *American Steamship v. Hallet Dock*¹¹ matter in Duluth – a complex, multi-week federal jury

trial involving the 2009 partial sinking of the 1,000-foot Walter J. McCarthy when it struck submerged debris in the Duluth-Superior Harbor. Lead defense counsel gave a solid closing, periodically using the easel or ELMO to highlight particular points or exhibits.

By contrast, plaintiff's legal team walked the jury through an hour-long, extraordinarily tech savvy and fast-moving PowerPoint presentation that highlighted the key evidence at trial. At first, it seemed as if the judge and jury were ignoring plaintiff's attorney completely, until it became clear that every one of them was glued to the video monitor directly in front of them – one monitor for every two jurors in the box. After a surprisingly short deliberation given the complexity of the case, the jury awarded \$4.7 million to the plaintiff.

Like it or not, today's jurors have been groomed to expect electronic case presentation. They will have little patience for attorneys that do not satisfy that expectation, and they will almost certainly trust video they see with their own eyes more than any witness that takes the stand. Enter body cams: most prosecutors and civil attorneys defending Section 1983 or use-of-force claims will tell you that jurors have traditionally given officers the benefit of the doubt except in the most serious cases of police misconduct. Now – it's all about the video. Everyone just wants to see the video and decide for themselves whether a defendant is guilty or an officer crossed the line. The danger with this new evidence is that it is as persuasive and striking as it is incomplete. A video can never capture the totality of the circumstances leading up to or surrounding an event, much less an officer's emotions and perceptions in the heat of the moment.

Moving forward, city attorneys and officers will need to be ready to deal with both the good and the bad of body cam footage in the courtroom. Aside from the necessity of being proficient in presenting relevant video clips, counsel will need to consider the likely reactions and judgments of lay jurors to body cam footage, then be ready to explain or satisfy juror doubts or questions through officer

The danger with this new evidence is that it is as persuasive and striking as it is incomplete. A video can never capture the totality of the circumstances leading up to or surrounding an event, much less an officer's emotions and perceptions in the heat of the moment.



testimony or other supplemental evidence. Video of a police shooting may well come across as shocking, abrupt, excessive or unnecessary based solely on what jurors see in the video. Surrounding events and circumstances will need to be carefully presented to ensure that knee-jerk reactions to videos do not decide cases.

City attorneys and police will also need to be careful to preserve all potentially relevant video evidence – or risk dismissals or spoliation sanctions in civil actions. Certain circumstances may warrant turning off cameras to protect citizen privacy, the identities of undercover officers of internal operations, etc. Such gaps in video footage, however, could prove costly to cities, as opposing counsel may retool their entire strategies to focus solely on what evidence may be missing and why. No matter how innocent, judges or juries could well make cities pay dearly for video evidence they *want* to see, but cannot for whatever reason.

VI. CONCLUSION

Body-worn cameras appear to hold great potential for reducing use-of-force incidents and police complaints while building trust and transparency in community policing. MVR programs could well be buried early by data practices requests and privacy con-

cerns, however, unless legislatures act quickly to classify body cam footage obtained in various public, private and investigative settings. The impact of body cameras on city police and attorney work will evolve quickly in the coming years. Stay tuned for legislative action and court decisions in the coming months. In the meantime, the below resources should prove helpful to city attorneys representing police departments considering body-cam deployment.

VII. ADDITIONAL LINKS & RESOURCES

(Editor's Note: Each of the additional resources referenced by the authors is annexed to the digital version of this article, available to IMLA members at the IMLA Archive www.imla.org/publications/magazine-archives.)

Reports and Research

Miller, Lindsay, Jessica Toliver, and Police Executive Research Forum.

2014. *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned* at pp. 5-6, Washington, DC: Office of Community Oriented Policing Services, <http://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>.

White, Michael D. 2014. *Police Officer Body-Worn Cameras: Assessing the Evidence* at p. 35, Washington, D.C.: Office of Community Oriented Policing Services, <https://ojpdiagnosticcenter.org/sites/default/files/spotlight/download/Police%20Officer%20Body-Worn%20Cameras.pdf>.

Stanley, Jay. October, 2013. *Police Body-Mounted Cameras: With Right Policies in Place, A Win for All*, https://www.aclu.org/files/assets/police_body-mounted_cameras.pdf.

A Primer on Body-Worn Cameras for Law Enforcement, U.S. Dept. of Justice, Office of Justice Programs National Institute of Justice (Sept. 2012), <https://www.justnet.org/pdf/00-Body-Worn-Cameras-508.pdf>.

Sample Policies

See Duluth Police Department Mobile Video Recorder Policy http://www.duluthmn.gov/media/304979/_duluth_pd_policy_manual.pdf

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for deer, elk, moose and bear jumping out of the woods every minute. What used to be where I went for a change of scenery will be my home country. The new things and old things were about in even balance, it seemed, as I kept an eye peeled for wildlife, and there appeared to be many coincidences in them. It will be interesting to see what happens next.

I will miss you, my listserv friends. There's a lot we don't know about each other, I suppose, but what we do know we know very well. You have helped me at least as much as I have helped any of you. We have done some good work together.

We work at the place in the machinery of democracy that theories are theories and what works is what works. There is no 'supposed to be' or 'should be.' It is what it is and we either make civilization happen every day, or it doesn't happen. We work on the retail floor of our federal system of government, and we do a mighty fine job of keeping the store stocked, well lit, warm and safe, and keeping the boss out of trouble. We are one of the great bargains in government and we add value to what we touch.

It is an honor to have had the harness on with you. I look forward to walking through this big change – and my new home country – with you.

The job comes with a 4-bedroom parsonage. This is the prettiest corner of the most beautiful region of the grandest run of the Rocky Mountains, with Glacier Park to the north, the Bob Marshall Wilderness to the east and spectacular, freshwater Flathead Lake – 30 miles long, as the crow flies – ringed with cherry orchards, to the south and west. I would have trouble believing my luck – this is so much more wonderful than anything I had dreamed of – if it didn't hurt so much to leave.

I'll keep a light on for you and I will continue to hang out at the Water Cooler. Don't be a stranger. My personal email address, jickaddy@gmail.com, is stable, and the website for the church is <http://www.bigforkumc.org/> (Watch for manuscripts and podcasts of sermons and a lot more photos there come this Canada Day).

Now that you know the place, all you have to find is the time. Onward and upward. **M**

See City of Minneapolis Body Camera Statement of Purpose <http://www.minneapolismn.gov/www/groups/public/@mpd/documents/webcontent/wcms1p-133495.pdf>

See also the website for the Spokane, Washington, Police Department Body Camera Pilot Program, <https://beta.spokanecity.org/police/accountability/bodycamera/>, which includes links to several additional body camera policies, including those adopted by Seattle, Denver, Phoenix, and Madison, Wisconsin, to name a few.

Notes

1. Trymaine Lee, Zachary Roth and Jane C. Timm, *Obama to announce \$75 million for body cameras* (December 1, 2014) AM, updated December 1, 2014, 8:13 PM), <http://www.msnbc.com/msnbc/obama-announce-75-million-body-cameras>.
2. Trisha Volpe, *Minneapolis police see promise in pilot project to use body cameras* (December 10, 2014), <http://www.mprnews.org/story/2014/12/10/mps-police-body-camera-pilot>.
3. Bateson et al., Cues of being watched enhance cooperation in real-world setting, *Biol. Lett.* (2006) 2, 412-414, <http://rsbl.royalsocietypublishing.org/content/roybiolett/2/3/412.full.pdf>.
4. Miller, Lindsay, Jessica Toliver, and Police Executive Research Forum. 2014. *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned* at pp. 5-6, Washington, DC: Office of Community Oriented Policing Services (available online at: <http://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>).
5. *Id.* at p. 6.
6. *Id.* at p. 5.
7. White, Michael D. 2014. *Police Officer Body-Worn Cameras: Assessing the Evidence* at p. 35, Washington, D.C.: Office of Community Oriented Policing Services (available online at: <https://ojpdiagnostic-center.org/sites/default/files/spotlight/download/Police%20Officer%20Body-Worn%20Cameras.pdf>).
8. Stanley, Jay. October, 2013. *Police Body-Mounted Cameras: With Right Policies in Place, A Win for All* (available online at: https://www.aclu.org/files/assets/police_body-mounted_cameras.pdf).
9. *Washington State police overwhelmed*

by public requests for dash- and body-cam footage, Homeland Security News Wire (November 27, 2014), <http://www.homelandsecuritynewswire.com/dr20141127-washington-state-police-overwhelmed-by-public-requests-for-dash-and-bodycam-footage>.

10. See, e.g., DPD Mobile Video Recorder Policy at 419.5.1 - .3 (listing circumstances requiring activation of body cams, cessation of recording, and prohibited recording).

11. *American Steamship Co. v. Hallett Dock Co.*, Civil File No. 09-2628 (MJD/LIB) (D. Minn. 2013). **M**

jectively unreasonable. In other words, is there a subjective component (in this case the Seventh Circuit applied a recklessness test, which is similar to a deliberate indifference test) to excessive force claims under the Fourteenth Amendment or should these claims be analyzed like Fourth Amendment claims brought by arrestees?

This case is of particular importance to local governments given the fact that municipalities run the jail facilities that house pretrial detainees and an objective Fourth Amendment type standard will make it more difficult for correctional officers and local governments to win on summary judgment in Section 1983 cases brought by pre-trial detainees. IMLA has joined an amicus brief that is being filed by the State and Local Legal Center in this case. The brief argues that the Eighth Amendment standard should apply to pre-trial detainees given the practical realities of jails. Specifically, convicted inmates and pre-trial detainees are housed together in correctional facilities and officers often have no way of knowing whether an inmate is convicted or a pretrial detainee. Moreover, it is not feasible for officers to segregate pretrial detainees because of safety concerns and high turnover rates in jails housing pretrial detainees. Having one standard that applies to all inmates, whether convicted or pretrial detainees, provides the greatest level of protection for correctional officers and local governments while still ensuring inmates' constitutional rights are safeguarded. **M**



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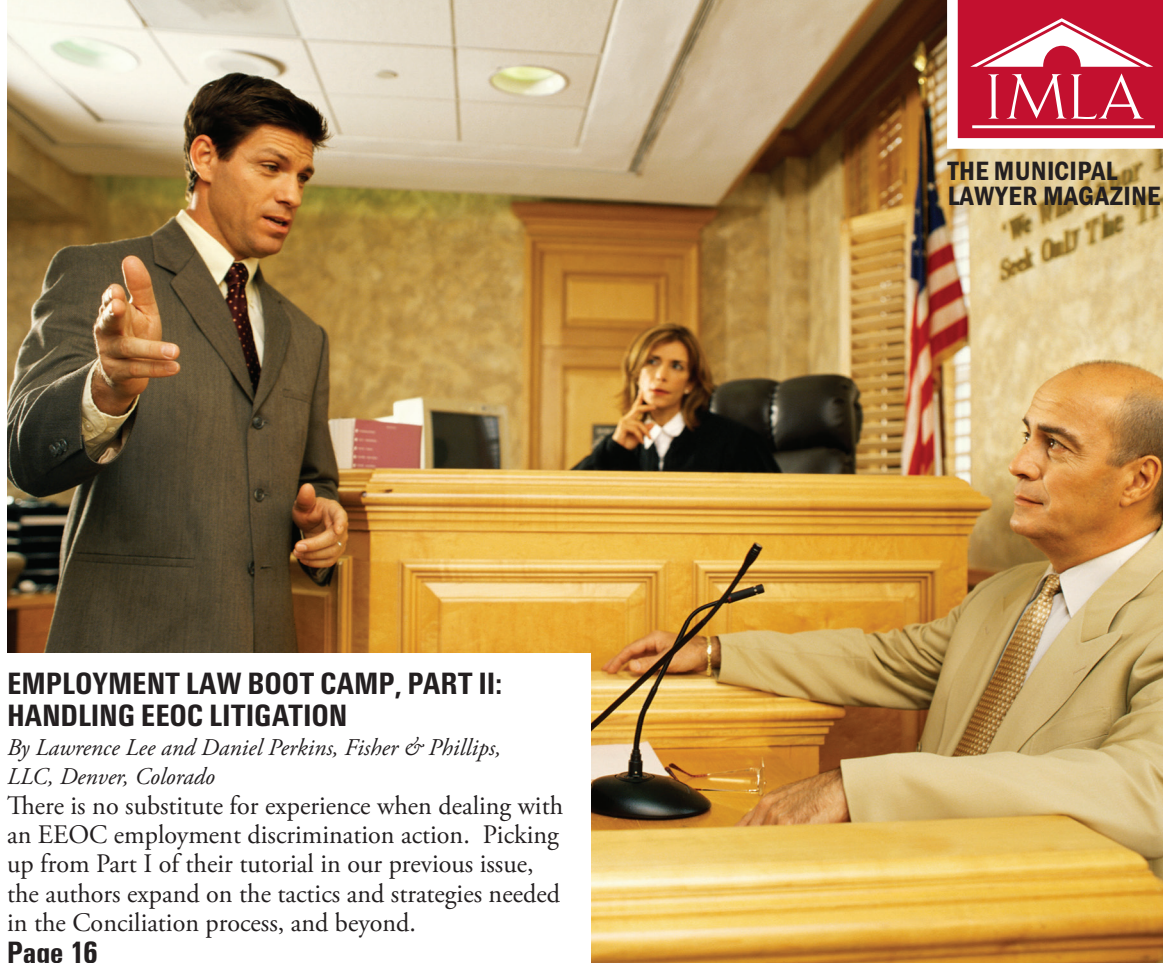
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EMPLOYMENT LAW BOOT CAMP, PART II: HANDLING EEOC LITIGATION

By Lawrence Lee and Daniel Perkins, Fisher & Phillips, LLC, Denver, Colorado

There is no substitute for experience when dealing with an EEOC employment discrimination action. Picking up from Part I of their tutorial in our previous issue, the authors expand on the tactics and strategies needed in the Conciliation process, and beyond.

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LOCAL NUISANCE ORDINANCES: PENALIZING THE VICTIM, UNDERMINING COMMUNITIES?

By Sandra Park and Michaela Wallin, American Civil Liberties Union, New York, New York

Municipalities have the power to terminate leases where illegal activity recurs. But care must be taken so that “crime free housing ordinances” do not punish victims of crime or violate federal laws.

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EDITOR'S NOTE:



**THE MUNICIPAL
LAWYER MAGAZINE**

EDITOR'S NOTE:

Dear Reader:

This issue of *Municipal Lawyer* leads with an article that may seem contentious. "Local Nuisance Ordinances: Penalizing the Victim, Undermining Communities?" was contributed by Sandra Parks and Michaela Wallin, both of the American Civil Liberties Union. They challenge municipalities to take a second look at the wording and application of nuisance housing ordinances, which sometimes produce unintended consequences. We think it is important to be aware of this critique and of the litigation that has already resulted on the subject.

We also provide continued insights on dealing with the EEOC in "Employment Law Boot Camp, Part II," courtesy of Larry Lee and Dan Perkins of Fisher & Phillips. In this chapter, they offer advice on the course of action if early negotiations fail and a suit is instituted.

Repeat contributor Dan Crean adds our third feature article—"Musings on Municipal Roads," which points out the importance of a municipality's knowing which are—and which are not—its roads and keeping them in proper order. His lead photo of a New Hampshire frost heave should be cooling as July approaches.

We offer a cornucopia of other knowledge: A problematic egg statute in California, the latest on the gun control dispute, and an analysis of the Federal Rules implications for government "experts." As always, we provide an update on IMLA's robust *amicus* activities and recent decisions of interest in Canada, this time originating from Quebec, Ontario, Saskatchewan and British Columbia.

Finally, we are pleased to bring to you a particularly entertaining and thoughtful List-Serv article by Kelly Butler, City Attorney of Madison, Alabama. Picking right up where our long-time colleague Kelly Addy left off, she will no doubt strike a familiar chord with municipal lawyers everywhere.

Best regards—

IMLA Editorial Board

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Municipal Lawyer is published 6 times per year, and feature articles should be between 2,500 and 4,000 words in length.

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LETTER FROM THE EDITOR

Professionalism in Times of Crisis

By Erich R. Eiselt, IMLA Assistant General Counsel and Editor

For the second time in three years, as our Mid-Year Conference was taking place in Washington DC, major events arose in other cities that focused the nation's attention on the role of public servants.

In May 2013, the Boston Marathon bombing shocked the country. Our collective support for Boston's first responders as they aided the fallen and pursued the perpetrators was unwavering. The aftermath of that terrible morning showed municipal workers at their best, calming the public and continuing to provide services while a manhunt played out.

Last month, news filtered through our 2015 Mid-Year Conference about spiraling civil unrest 30 miles to the north, as parts of Baltimore erupted in response to Freddie Gray's death following arrest and transport by police. This time, the national response to municipal government was slightly more nuanced. Law enforcement's critical responsibility in restoring the peace was unchallenged—but larger questions about government's role in the events and circumstances that aroused citizens to take to the streets were far more complicated.

These headlines, and many others around the country, remind us of the judgments and leadership that municipalities—and the IMLA members within them—are called upon to provide every day. As with many aspects of life, it is not in the mundane and day-to-day that one's skills and dedication are truly tested; it is in the unforeseen and extraordinary. Whether natural disasters like the cataclysmic weather patterns recently battering the Southwest or man-made violence destroying lives and neighborhoods, these crises require municipal governance at its best.

IMLA endeavors to further that goal, by promoting professional com-

petence, transparency and respect for the rule of law. Our members enlighten one another about meeting these challenges, whether through the ListServ which we provide in conjunction with Municode, through our numerous webinars offered by leading experts, or at our conferences where formal and informal education occurs over a multi-day retreat. We have not hesitated to approach leading-edge issues, including police shootings, excessive force and qualified immunity. We bring to our stage not only domain experts from within our ranks but also participants whose viewpoints may be critical of local government policies, such as representatives from the Equal Employment Opportunity Commission, the Department of Labor, the Securities and Exchange Commission and the American Civil Liberties Union. As evidenced by our lead article, we aim to educate, and our membership is interested in that breadth of knowledge.

In that regard, we have been pleased to announce a special IMLA meeting next January in Havana, Cuba. Envisioned and instigated by IMLA's International Committee under the leadership of Ben Griffith, the Cuba trip will be an extraordinary opportunity for our own municipal attorneys to meet jurists, officials and everyday citizens in a society that has remained largely closed to Americans for more than 50 years.

Closer to home, our upcoming annual Conference in Las Vegas promises to be another excellent opportunity to enhance professional expertise and strengthen personal ties. We have already confirmed a superior slate of presenters from around the country to speak during our four-day convocation in early October. We hope you will consider joining your many IMLA colleagues

who have already reserved their seats at the event.

As this month's ListServ guest contributor, Kelly Butler, City Attorney of Madison Alabama Attorney's office reminds us, the practice of municipal law is not always well understood or appreciated by our constituents. But acclaim has rarely been cited as the motivation for a career in municipal law.

It is more likely related to that defining "Moment" Kelly describes, when a municipal lawyer's judgment, experience and professionalism are called upon to protect and advance the community in exigent circumstances.

IMLA is honored to represent you and to help play a role in your service to community and country every day, and particularly in times of crisis. **ML**

If you are interested in presenting a paper at one of these future conferences or seminars, please mail information to IMLA or contact IMLA at info@imla.org.

2015 IMLA's 80th
Annual Conference
Las Vegas, Nevada
October 4-7, 2015



Local Nuisance Ordinances: Penalizing the Victim, Undermining Communities?

By: Sandra Park and Michaela Wallin, American Civil Liberties Union



I. Introduction

On September 2, 2014, the Borough of Norristown, Pennsylvania approved an agreement to pay \$495,000 to a tenant and her attorneys to settle a federal lawsuit challenging a local nuisance ordinance that penalized landlords or resulted in tenants' evictions when they requested or received police assistance at their homes.¹ Norristown also agreed to repeal the ordinance completely. The American Civil Liberties Union (ACLU), the ACLU of Pennsylvania, and the law firm of Pepper Hamilton LLP filed the suit in 2013 on behalf of a domestic violence victim who had faced eviction pursuant to the ordi-

nance after requesting police protection from an abusive ex-boyfriend.²

Soon after, the Secretary of the U.S. Department of Housing & Urban Development (HUD) filed a separate Fair Housing Act (FHA) complaint against Norristown. That complaint resulted in a conciliation agreement requiring the Borough to engage in fair housing training and outreach and made it subject to monitoring, reporting, and recordkeeping requirements.³

The lawsuit against Norristown is one of a number of successful challenges against local nuisance ordinances – also known as crime-free ordinances or disorderly house laws – that penalize properties when they are the site of a certain number of calls to the police

or instances of criminal or disorderly activity. Although they may aim to address community well-being and local crime, these ordinances can actually undermine public safety by interfering with the ability of residents, particularly victims of domestic and sexual violence, to seek emergency and police assistance. They also give rise to numerous legal concerns.

This article will explain the growing trend of local nuisance ordinances and their often unintended consequences on both individuals and public safety as a whole. It will then discuss the legal liability municipalities can face when enforcing nuisance ordinances, outlining recent successful challenges to these kinds of local laws. Finally, it reviews best practices for municipalities to ensure the housing security of domestic violence survivors, guard against violating individuals' legal rights, and pursue alternative responses to recurrent crime or disorderly activity in a community.

II. Nuisance Ordinances and their Unintended Consequences

Housing security and access to police assistance in an emergency are essential to a stable, productive life. For victims of domestic violence, these necessities can take on even more importance. However, many municipalities have enacted laws that penalize tenants and property owners based on police response or criminal activity occurring on a property that inhibit individuals from calling the police in an emergency.

These ordinances typically identify certain conditions that make a property a “nuisance,” including conduct like disorderly conduct, assault, harassment, and stalking. While some single out domestic violence specifically for penalty, others are broad and include any violation that occurs at the home. Still other ordinances include behavior that is vaguely defined, such as “suffering or permitting the premises to become disorderly, including suffering or permitting fighting,” “disruptive conduct,” or behavior “that detrimentally affects the quiet and reasonable use and enjoyment” of neighboring property.⁵

Troublingly, most of these nuisance ordinances apply regardless of whether the resident was a victim of the alleged

nuisance conduct or had no way of controlling it. The mechanisms by which these ordinances identify nuisance properties differ – some impose penalties on the first instance of nuisance activity, others adopt a three-strike method, while still others use a points-based approach, assigning different numbers of points to different types of conduct and a total point amount upon which a property will be cited. However, upon reaching an ordinance’s given threshold, the result is generally the same. The landlord or property owner is given a choice: either “abate” the nuisance or face penalties that can include fines, revocation of required licenses, property forfeiture, or even imprisonment. Landlords are thus pressured or even required to evict tenants after multiple police calls have been made to their apartment, even if the tenants have not engaged in criminal activity

Characteristics of Local Laws That Threaten the Safety of Residents

- Defining a nuisance as any situation where an occupant, guest or invitee commits criminal activities, or engages in disorderly conduct on the premises, regardless of whether the tenant was the victim of that conduct or could not control it.
 - Defining nuisances to include crimes that are commonly associated with domestic violence, such as assault, harassment, stalking, and sexual misconduct.
 - Creating a point system, three-strike rule, or other mechanism by which tenants or landlords are penalized after multiple instances of “criminal activity” or calls to the police.
 - Defining triggering activity based on arrests and/or police investigations.
 - Failing to give residents notice and an opportunity to explain why a local law should not be enforced.
- (Note: this list is not exhaustive)

These laws end up hurting residents who need emergency assistance and crime victims, especially domestic violence survivors and other vulnerable communities. In many communities, calls regarding domestic violence make up the largest category of calls a police department receives.⁶ As a result, local

nuisance laws have been found to cite incidents of domestic violence far more frequently than the offenses they are typically intended to target, such as those related to drugs, property damage, and weapons.⁷ Upon receipt of a citation or even a warning, landlords usually are required or pressured to evict domestic violence victims who request police protection, for this is the only sure way to “abate” the nuisance as required by the local ordinance.

In addition to their devastating impact on victims of crime and domestic violence victims in particular, nuisance ordinances can disproportionately impact and be disparately enforced against persons with mental disabilities and communities of color. Persons with disabilities may need emergency medical assistance with some frequency, risking eviction under ordinances that include any 911 call as the basis for citation. The inclusion of disorderly conduct as a nuisance offense can also implicate law enforcement’s interaction with persons having psychiatric disabilities and can undermine the housing security of this population. Moreover, a study by scholars at Harvard and Columbia found that a local nuisance ordinance was disproportionately enforced against communities of color, compared to majority-white communities.

African-American women can be particularly impacted by these nuisance ordinances, as they may be subject to disproportionate enforcement on the basis of both race and domestic violence.¹⁰

By imposing penalties based on calls to the police, these laws deter the reporting of crime and place crime victims and those needing emergency assistance in heightened danger. This was the case for a domestic violence survivor in East Rochester, New York when police warned her that, pursuant to such an ordinance, her third call for help would result in eviction. Her ex-boyfriend, who was aware of the ordinance, continued to harass and stalk her with impunity.¹¹ The victim would not call the police because she feared losing the home she provided for herself and her children.¹² Stripped of any real right to police protection, this family was placed in ongoing jeopardy simply because the tenant was a victim—both of her abuser and the ordinance. This chilling effect can also extend to individuals facing other types of crimes such as larceny and assault unrelated to domestic violence. They have even been enforced against individuals

who called 911 seeking help in a medical emergency.

Municipalities across the country have turned to nuisance ordinances as the “quick fix” for addressing crime in their communities. Ironically, there is no evidence that penalizing entire households for calls to the police or for activity on the property does anything to control crime. Instead, there is well-documented evidence that these policies impose penalties on innocent people and discourage calls to the police, undermining public safety.

In addition to impacting public safety, increased housing insecurity for vulnerable communities like domestic violence survivors and persons with mental disabilities can cost municipalities directly. Inability to maintain safe and secure homes can exacerbate the challenges that these individuals may already face. This can result in homelessness, increased need for social services, and inability to work – all of which have ripple effects on the local economy. Thus, when municipalities take proactive measures to ensure that efforts to address crime do not result in housing insecurity or limit access to police assistance, they benefit not only survivors but also entire communities.

III. Legal Liability for Municipalities that Enact and Enforce Nuisance Laws

Municipalities put themselves at risk of liability whenever they enforce a law that penalizes tenants and/or property owners for police calls. This can implicate federal laws which prohibit housing discrimination and establish affirmative obligations to promote access to safe and affordable housing. Enforcement of nuisance ordinances may also violate the First Amendment right to petition the government for a redress of grievances, the Fourteenth Amendment Equal Protection and Due Process guarantees, and the Fourth Amendment prohibition against unlawful seizure.

Finally, states are increasingly passing legislation that affirmatively protects individuals’ rights to seek police or emergency assistance without penalty.

a. Fair Housing Protections and Requirements

Nuisance ordinances are very likely to

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conflict with two federal laws requiring nondiscrimination in housing: the FHA and the Violence Against Women Act (VAWA). Municipalities can also violate federal law when they fail to affirmatively further fair housing as required of all federal housing fund recipients.

i. The Fair Housing Act

The FHA prohibits housing discrimination based upon race, color, religion, sex, familial status, national origin, or disability, whether the discrimination is intentional or arises due to disparate enforcement or disparate impact on protected classes.

Domestic violence survivors may have claims under the FHA when they are evicted, denied housing, or otherwise discriminated against due to the violence they have experienced.¹⁵ HUD has stated that discrimination against domestic violence survivors can constitute sex discrimination, as approximately four in five domestic violence survivors are women.¹⁶ Even when discrimination is not explicit or intentional, policies that are disproportionately enforced against or have a disparate impact on domestic violence survivors will often constitute illegal gender discrimination.¹⁷

Municipalities can incur liability under the FHA for enacting and enforcing nuisance ordinances that explicitly list domestic violence as a nuisance activity or that are otherwise based on gender stereotypes about abused women.¹⁸ Municipalities may be liable for disparate treatment when they enforce a nuisance ordinance more aggressively against incidents of domestic violence or incidents involving other protected classes.¹⁹ FHA violations can also arise regardless of intent when a nuisance ordinance has a disparate impact on domestic violence survivors, minority communities, persons with disabilities, and other protected classes.²⁰

ii. The FHA's Affirmatively Furthering Fair Housing (AFFH) Requirement

In addition to guarding against discrimination, municipalities may be obligated to take proactive steps to promote fair housing for domestic violence survivors.²¹ This is mandated by

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the FHA's requirement that federally-funded housing programs be administered in a manner which "affirmatively furthers" FHA policies.²² Under this "affirmatively furthering fair housing" (AFFH) obligation, municipalities and other affordable housing administrators must actively take steps to assure that affordable housing is "fully available to all residents of the community."²³ Municipalities are subject to the AFFH requirement if they receive certain types of federal funding, such as funding for public housing, community development block grants, or other funding for housing subsidies.

Recipients of federal housing funds are required to assess impediments to fair housing and take proactive measures to overcome their effects.²⁴ Because approximately four in five domestic violence survivors are women,²⁵ affirmatively furthering equal access to housing on the basis of gender requires municipalities to consider their policies' impact on domestic violence survivors. Municipalities must analyze their fair housing environment, identify fair housing issues and their causes, set and prioritize fair housing goals, and plan meaningful actions to affirmatively further fair housing.²⁶

Municipalities that affirm their progress in this area while simultaneously enforcing policies that imperil the housing security of domestic violence victims risk violating their AFFH ob-

ligations. If a federally-funded housing program refuses to comply with AFFH requirements, the federal government may file suit to require the program's cooperation,²⁷ or may withhold funds from the noncompliant entity.²⁸ The requirement to affirmatively further fair housing also has been the basis for complaints by private citizens and organizations under the FHA.²⁹ As such, it is important for municipalities to investigate the unintended consequences of policies like nuisance ordinances that, while not targeting domestic violence survivors and/or protected classes on their face, end up hurting them.³⁰

iii. The Violence Against Women Act

VAWA is a federal law that provides affirmative protections for victims of domestic violence, sexual assault, dating violence, and stalking. The law specifically addresses the housing rights and needs of survivors.³¹ VAWA provides that federally-funded housing providers (including municipalities³² and others) may not deny assistance to, terminate from participation, or evict an applicant or tenant on the basis that he or she has been a victim of domestic violence, dating violence, sexual assault, or stalking.³³ Additionally, survivors may not be evicted from their homes based on criminal activity in or near the home if that criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking.

Municipal policies that direct private landlords to evict based on criminal and other activity on the premises may conflict with VAWA when enforced against domestic violence victims in federally subsidized housing. Even when a municipality's nuisance ordinance does not explicitly require eviction, these laws can pressure landlords to evict tenants who are the target of abuse. In doing so, these laws put landlords in the middle of two legal mandates: either they violate federal law by evicting a tenant on the basis of violence against her or they violate the local ordinance by not evicting the tenant, facing steep penalties.

b. Constitutional Rights and Protections

In addition to fair housing violations that can arise from nuisance ordinance

enforcement, municipalities have been subject to claims alleging violations of the First Amendment right to petition the government, Fourteenth Amendment guarantees to Due Process, and Fourth Amendment protections against unlawful search and seizure.

Individuals have a First Amendment right to petition the government. Several courts have interpreted this right to protect communications to law enforcement agencies, which in turn extends to (1) reporting physical assault, (2) reporting criminal activity, and (3) filing a complaint with law enforcement.³⁵ Nuisance laws may chill First Amendment rights when they impose or threaten penalties for tenants who need police aid. The impact on domestic violence survivors is significant because domestic violence is "the single largest category of calls received by police," amounting to up to 50 percent of all such calls.³⁶ This can have dire, even life-threatening, consequences for tenants who need police assistance. For example, in Norristown, Pennsylvania, a survivor of domestic violence repeatedly resisted calling the police after learning of the ordinance, begging her neighbors not to call, even when she had been stabbed in the neck by her abuser.

Enforcement of nuisance ordinances may also violate Fourteenth Amendment Due Process protections.³⁷ Nuisance ordinances frequently fail to provide notice of or opportunity to challenge a nuisance determination to all individuals who are impacted by a potential citation. Many provide no notice at all or only notify property owners or landlords that a property risks penalty.³⁸ As a result, tenants may receive no notice that their home could be in jeopardy and no indication that their activities have been deemed a nuisance.

Many nuisance ordinances also have little or no process in which tenants can contest a given strike or appeal a citation.³⁹ Tenants then have no opportunity to explain that they were the victims of an alleged nuisance activity or had no ability to control it. When this is the case, landlords are actually incentivized to evict tenants after a single incident of alleged nuisance, as this is the only sure way to avoid future penalty.

Nuisance ordinances may also implicate Fourth Amendment protections against unlawful search and seizure. Nuisance laws frequently authorize municipalities to penalize properties by condemning them or otherwise prohibiting use of the property for a certain time frame. They may also require property inspections. These provisions can violate constitutional prohibitions against unreasonable search and seizure when they empower municipalities to take action without giving tenants sufficient notice or process.⁴⁰

c. State Laws

State legislatures have increasingly taken notice of the negative impact of local nuisance ordinances. Several states have enacted or introduced legislation that recognizes an individual's right to request police and emergency services or prohibits nuisance ordinances from being enforced against victims of crime. Minnesota and Pennsylvania have enacted laws that expressly prohibit municipalities from imposing penalties on tenants who exercise this right. Similar bills are pending in New York, Illinois, and Iowa.⁴²

IV. Recent Challenges

There have been a number of successful challenges to local nuisance ordinances by private individuals and the federal government. These challenges have resulted in settlement and conciliation agreements requiring municipalities to pay significant monetary damages, repeal or amend the laws at issue, and provide additional equitable relief.

a. Federal Lawsuits

As referenced at the beginning of this article, in April 2013, the ACLU Women's Rights Project, the ACLU of Pennsylvania, and the law firm of Pepper Hamilton LLP filed a lawsuit against Norristown, Pennsylvania on behalf of a domestic violence victim who had faced eviction from her home after requesting police protection from an abusive ex-boyfriend. The plaintiff's claims included violations of the FHA, VAWA, the First Amendment, Due Process guarantees, and similar state protections.⁴³ After the plaintiff defeated a motion to dismiss, the parties settled, with Norristown agreeing to pay \$495,000 to the plaintiff for damages and attorneys' fees.⁴⁴ Norristown repealed the ordinance and is obligated not to pass a

similar measure in the future.⁴⁵

Following this litigation, at least two other municipalities in Pennsylvania have been the subject of lawsuits. In Blakely, Pennsylvania, two cases were filed on behalf of landlords and impacted tenants, challenging enforcement of the city's nuisance ordinance against victims of domestic violence.⁴⁶ These lawsuits were settled in February 2015, with Blakely rescinding the ordinance and paying undisclosed compensatory damages and attorneys' fees.⁴⁷ The ACLU of Pennsylvania has another lawsuit pending against the city of Wilkes-Barre. This case alleges violations of the due process rights of landlords and tenants whose rental properties were seized by the city under an ordinance that authorizes officials to evict tenants immediately and prevent landlords from renting a property for six months if anyone is suspected of illegal activity on the premises.⁴⁸

Two other federal lawsuits against similar ordinances in New York have settled favorably for the victims of crime. East Rochester, New York settled claims brought by two victims of domestic violence who alleged that, despite facing repeated violence from their abusers, they were chilled from calling the police for fear of being evicted under a local nuisance ordinance. East Rochester amended the law to exempt crime victims from penalty and paid the plaintiffs \$100,000. Hornell, New York also settled a federal challenge to its ordinance that was brought by a survivor of domestic violence, amending the law to exempt victims of similar abuse and providing additional notice and process for impacted tenants.⁵⁰

b. Federal Executive Action

HUD has expressly recognized nuisance ordinances as a fair housing issue, pursuing action in two states against municipalities whose local ordinances unlawfully discriminate against victims of domestic violence.⁵¹

Following the lawsuit in Norristown, the Secretary of HUD instituted a complaint against the Borough, alleging that its enforcement of the local ordinance amounted to discrim-

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ination on the basis of sex under the FHA.⁵² The Department entered a conciliation agreement with Norristown in September 2014, which required the Borough to engage in fair housing training, inform residents that the ordinance had been repealed and encourage them to call the police when needed, and comply with monitoring, reporting, and recordkeeping requirements.⁵³

Shortly thereafter, in October 2014, HUD filed its second Secretary-initiated complaint regarding a local nuisance ordinance. The complaint alleged that Berlin, New Hampshire unlawfully discriminated against women by enacting and enforcing a nuisance ordinance that, while not explicitly targeting domestic violence, had a discriminatory impact on women. HUD subsequently entered a conciliation agreement with Berlin in January 2015, requiring that they amend their ordinance to address its potential impact on victims of domestic violence and engage in similar training and outreach as that required of Norristown.⁵⁴

This recent activity documents an ongoing interest by HUD in the issue. Municipalities should note that HUD's jurisdiction extends to administration of AFFH requirements ~ and entities found in violation of their obligations might lose federal housing funds and/or be subject to legal action as a result.

V. Recommended Practices

To avoid costly legal consequences, municipalities should examine their municipal codes and eliminate nuisance laws that may have a discriminatory impact on protected classes. They should pursue more targeted approaches to addressing public safety concerns that avoid unintended consequences for domestic violence survivors, victims of crime, and other protected groups. The following are recommended practices for addressing municipalities' concerns about community wellbeing and local crime without punishing crime victims:

a. Assess Impact of Local Nuisance Ordinances

For municipalities with ordinances that are similar to those described here, it is essential to determine whether they are effectively targeting the problems that motivated their enforcement and assess the impact of these laws on their communities. Some ordinances have been adopted in response to one community member's complaints about a disruptive neighbor or establishment, extending enforcement to the entire community without an assessment of need. Others are adopted to address drug traffic in a community but include every crime in the federal and state code as nuisance offenses. Many more are adopted without an identified local problem, simply finding an appeal in the general concept of a ban on nuisance activity and the hypothesized reduction in crime and municipal cost.⁵⁵

When closely analyzed, local ordinances have been revealed to have unintended consequences that far exceed the targeted crimes or neighborhood problems they are aimed to reduce. For example, a study of a nuisance ordinance in Milwaukee, Wisconsin found that domestic violence was the third most cited nuisance activity, far outpacing the offenses the ordinance was purported to target, such as those related to drugs, property damage, and weapons.⁵⁶ Another study of a points-based ordinance in Binghamton, New York found that incidents of domestic violence on average received more points than any other type of incident cited under the ordinance.⁵⁷

Because these laws are structured to sweep up a large array of alleged nuisance behavior and typically have no exception for victims of crime or for requiring other emergency assistance, they are extremely likely to have unintended consequences going beyond the reasonable goals of public safety and crime reduction. Even where there may not be evidence of direct impact on protected classes, these ordinances can have a chilling effect on individuals' willingness or ability to report crime and can encourage landlords to discriminate against individuals they perceive as likely to

be the subject of these laws. This undermines the very goals advanced by proponents of nuisance ordinances.

b. Pursue Targeted Implementation of Existing Law

Instead of a one-size-fits-all approach, municipalities should pursue targeted implementation of existing law. Municipalities typically already have sufficient tools to address the problems that are most often cited as the goals of nuisance ordinances, such as drugs, noise, and property damage. As compared to existing zoning and penal laws, nuisance ordinances can be inefficient and unwieldy to enforce, and often do not afford adequate due process. Enforcement of nuisance ordinances can require many more resources than lawmakers initially realize.

Merely adding a domestic violence exception to nuisance ordinances does not effectively address the concerns of overbroad enforcement. Many incidents that arise from domestic violence may not appear that way to first responders, especially when abusers intimidate victims from reporting what happened. For example, it is common during domestic violence incidents for a victim to call 911 and hang up, due to retaliation by their abuser. Police sent to the scene may be unable to determine the circumstances that led to the call, and may even characterize the call as frivolous. The ordinance also may encourage landlords to take inappropriate actions against victims of domestic violence before a police response to the home. Moreover, an ordinance that penalizes calls to the police continues to raise significant First Amendment concerns. Every resident in need of police or emergency assistance should be able to reach out for it, regardless of the criminal activity at issue.

When thinking through the changes that would be required for an ordinance to avoid legal liability under the many claims listed above, a number of municipalities have determined that their community is better served by a repeal of the ordinance or by declining to enact one in the first place.⁵⁸ This leaves them able to

pursue the same objectives through more targeted means, while ensuring the continued availability of police assistance to those who need it.

c. Protect Crime Victims' Access to Effective Police Assistance

In addition to ensuring that they are not chilling crime victims' right to seek police assistance (or penalizing them when they do), municipalities can pursue practices to protect crime victims' access to police assistance. Municipalities should examine their policies to ensure that police responses to domestic violence calls do not discourage victims from summoning assistance. This may require oversight to ensure that officers do not engage in discriminatory practices and understand how to respond to domestic violence calls effectively and without bias.⁵⁹ Municipalities should also scrutinize the policies of any federally-funded housing they operate to ensure that, among other topics, the policies on breach of lease and review of prospective tenants do not permit negative housing action against domestic violence victims. Municipalities may also wish to incorporate discussion of domestic violence-based discrimination and First Amendment protections into training for private landlords. Finally, municipalities should consider passing laws that affirm crime victims' right to seek police assistance, and that create an affirmative defense to proceedings penalizing tenants and landlords that arise from a tenant's status as a victim of domestic violence or requests for police assistance. These affirmative practices and others are outlined in the ACLU Women's Rights Project report, *Safe Homes, Safe Communities: A Guide for Local Leaders on Domestic Violence and Fair Housing*.⁶⁰

VI. Conclusion

Where municipalities are actively involved in preventing housing discrimination on the basis of police calls, they will protect the housing rights of crime victims (and domestic violence victims in particular). They will also avoid costly legal penalties, both for themselves and for local landlords. Furthermore,

In addition to ensuring that they are not chilling crime victims' right to seek police assistance (or penalizing them when they do), municipalities can pursue practices to protect crime victims' access to police assistance.

policies ensuring that domestic violence survivors—and all crime victims—receive protection, not punishment, if they contact the police will lead to greater reporting, more productive relationships with law enforcement, and increased public safety overall.

(For more information on this issue, please refer to www.aclu.org/notanuisance.)

1. Release and Settlement Agreement, *Briggs v. Borough of Norristown*, No. 2:13-cv-02191-ER (E.D. Pa. Sep. 18, 2014), available at <https://www.aclu.org/womens-rights/briggs-v-borough-norristown-et-al>.

2. Sandra Park, *Shut Up or Get Out: PA City Punishes Domestic Violence Victims Who Call the Police*, Blog of Rights, American Civil Liberties Union (Apr. 24, 2013, 3:24 PM), <https://www.aclu.org/blog/womens-rights-lgbt-rights-racial-justice-criminal-law-reform/shut-or-get-out-pa-city-punishes>.

3. Housing Discrimination Complaint, Assistant Sec'y for Fair Hous. & Equal Opportunity v. Borough of Norristown, PA, No. 03-13-0277-8 (Dep't of Hous. & Urban Dev., Jun. 5, 2013) [hereinafter *Norristown HUD Complaint*], available at https://www.aclu.org/sites/default/files/assets/hud_complaint.pdf; Conciliation Agreement between Assistant Sec'y of the Office of Fair Housing and Equal Opportunity and Municipality of Norristown, Nos. 03-13-0277-8 and 03-13-0277-9 (Dep't of Hous. & Urban Dev., Sept. 17, 2014) [hereinafter *Norristown Conciliation Agreement*], available at https://www.aclu.org/sites/default/files/assets/hud_norristown_conciliation_agreement_2014_09_18.pdf.

[hud_norristown_conciliation_agreement_2014_09_18.pdf](https://www.aclu.org/sites/default/files/assets/hud_norristown_conciliation_agreement_2014_09_18.pdf).

4. See Emily Werth, Sargent Shriver Nat'l Ctr. on Poverty Law, *The Cost of Being Crime Free: Legal and Free Rental Housing and Nuisance Property Ordinances* 5-20 (Aug. 2013), available at <http://povertylaw.org/sites/default/files/files/housing-justice/cost-of-being-crime-free.pdf>.

5. See, e.g., Matthew Desmond & Nicol Valdez, *Am. Sociological Rev. Online Supplement to Article in American So-*

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Michaela Wallin is an Equal Justice Works Fellow at the ACLU Women's Rights Project. At WRP, Michaela works to challenge housing discrimination against survivors of gender-based violence and to ensure government responsibility for responding to and preventing this violence. Michaela graduated from Columbia Law School, where she was a Public Interest Fellow and a Harlan Fiske Stone Scholar. Prior to law school, she engaged in education and advocacy on gender discrimination and police harassment in nomadic communities in India and coordinated a domestic violence legal assistance program with the Volunteer Lawyers Project in Portland, Maine. Michaela was Phi Beta Kappa and graduated *magna cum laude* from Bowdoin College.

Musings on Municipal Roads

By: Daniel D. Crean, Crean Law Office



As this article is being written, winter, at long last, has finally yielded to spring in the Northeast, and a New Hampshire municipal lawyer's thoughts inevitably turn to municipal roads, mud, and frost heaves.¹ So, too, do the thoughts of New Hampshire municipal *road agents*. ("Road agent" is New Hampshire's and New England's quaint term for the person in charge of municipal highway maintenance. Though some taxpayers might dispute the notion, the term does not refer to a highwayman, i.e., a thief and brigand who preys on those traveling the roadways). Frost heaves are such a regular component of the spring landscape here in the Granite State that local theaters host *Frost Heaves*, a show featuring "Live comedy, music, and assorted Yankee nonsense from the most underappreciated town in New Hampshire!"²

The frost heave: winter's gift to spring driving.

Not every municipality across the country experiences the joys of frost heaves or mud season. Yet, every municipality inevitably faces concerns with the condi-

tion and maintenance of highways, and potential liability to users. A thoroughly unscientific study (aka an Internet search) proffers one main conclusion about local roads: sometimes municipalities are held liable for incidents occurring on their roads and sometimes they are not.

Immunity and liability vary not only from jurisdiction to jurisdiction, but also with respect to causation (e.g., inclement weather, comparative or contributory negligence, warnings, postings, and discretionary function). The National Conference of State Legislatures has a webpage discussing sovereign immunity and tort liability,³ it reviews matters such as damage caps and punitive or exemplary damages. Though the webpage focuses primarily on state liability, it does provide information and perspective on local governments.

Municipal Liability: Knowledge and Culpability. Flippant as the above comment on municipal liability or immunity might seem, it would appear at least to be a reasonable description regarding the general state of local government responsibility to users of roads. This article seeks

to provide some practical (and a little legal) guidance that might assist in protecting your municipal treasury from claims relating to highway defects. The term "defect" – or any of its multiple variants (e.g., "insufficiency") – is significant, as most jurisdictions generally hold that local government liability is premised upon some degree of culpability based on a defect in the road.⁴ That means that liability associated with the duty to maintain roads is neither barred by application of sovereign immunity nor imposed strictly as a guarantor of the safety of travelers.⁵

Liability will arise under what appear to be fairly common requirements: **Municipal ownership of (or responsibility for) the road.** Municipalities are generally not responsible for accidents or damages occurring on private roads or roads maintained by another jurisdiction (e.g., another municipality, a county, or the state.)

As with any general proposition, exceptions exist. Several years ago the limb of a tree located on state college property in New Hampshire fell onto a vehicle being operated on a state-maintained road, resulting in severe injuries. Under applicable law, the town in which this occurred would have no share of liability; but here the town had been designated a "Tree City" and had recently inspected the tree without noting its dangerous condition. Road classification systems may free municipalities from responsibility for maintaining particular classes of roads. In New Hampshire, the state is responsible for class 1, 2, and 3 roads. Municipalities are responsible for class 4 and 5 highways. Class 6 roads are deemed public, but municipalities have no duty to maintain them. But as a small town north of Canterbury, New Hampshire learned, municipal immunity associated with a class 6 road is not immutable. There, a class 6 road crossed over the Merrimack River. The bridge was in a hazardous condition. The town selectmen, seeking to protect travelers from falling into the river, erected a metal bar across the road. Sure enough, a motorcyclist riding at night ran into the bar and suffered injuries.

The town pled immunity under the class 6 road statute, but the New Hampshire Supreme Court allowed the suit to go forward, finding that the town's actions were not encompassed solely by the class 6 road categorization. Instead, the motorcyclist was permitted to bring an action because of allegedly tortious municipal conduct in constructing and/or maintaining a barrier to a discontinued bridge.⁶

Notice of defects. Statutes may require that the municipality have notice of a defect or insufficiency as a necessary condition to a finding of negligence or culpability. Receipt of notice alone may not trigger liability as~ consistent with the avoidance of strict liability~a municipality ought to have some opportunity to correct or at least post some form of warning of a defect. Some statutes may require actual notice and may define the officials to whom notice must be provided.

New Hampshire even requires the notice to be in writing – yet, the statute also states that municipalities are deemed to have notice if “(t)he selectmen, mayor or other chief executive official of the municipality, the town or city clerk, any on-duty police or fire personnel, or municipal officers responsible for maintenance and repair of highways, bridges, or sidewalks thereon had actual notice or knowledge of such insufficiency, by means other than written notice pursuant to RSA 231:90, and were grossly negligent or exercised bad faith in responding or failing to respond to such actual knowledge.” [NHRSA 231:92, I (b).] One difficulty posed by these actual notice requirements is proving that a designated official did not observe a defect, particularly one that is reasonably obvious. (To address that situation, this article includes a suggested policy to establish reporting requirements and a system for docketing and responding to both formal written notices and actual, observed defects).

Time to review and cure. A feature of this type of liability is that a municipality ought to have some

Receipt of notice alone may not trigger liability as~ consistent with the avoidance of strict liability~a municipality ought to have some opportunity to correct or at least post some form of warning of a defect.

time to review a claimed defect and that, practically, it cannot cure the defect immediately. The claimed inability to act may be for budgetary, weather-related, or lack of personnel, or because action may be complicated or require appropriations or engineering work. The ability to defer correction, though, is accompanied by a requirement to act promptly, at least to the extent of posting warnings or taking some other protective action.

Possible Municipal Lawyer Preventive Maintenance Practices. Over the course of some 35-plus years of municipal lawyering, including serving as a municipal official in various posts, I have encountered situations in which a lack of knowledge about municipal roads and records affected exposure to liability. The following list of questions may not apply to all municipalities, but they do cover a number of instances in which knowing the answers may serve as a one means of “preventive maintenance.”

1. **Do You Know Where Your Roads Are?**
 - Identification of roads by classification or other factors:
 - Extent, width, length?
 - Verification of status?
 - Location of road rights-of-way:
 - Maps or as-built plans;
 - Is a defect located in the road or somewhere else?
 - When was the last time roads were mapped or catalogued?
2. **Have You Received “Notice” of a Defect Without Knowing It?**
 - It’s not just the highway work crew that is “charged” with noticing AND reporting highway defects (and potential defects)!

3. Have You Assumed Liability for Roads (or Other Areas) that Are Not Public?

- If so, are they “roads” or “premises” (or some other term), liability for which may be governed by statutes other than road laws?
- Are these properties “paved with gold” for plaintiffs?

4. How Does the Public Know if a Road Is Municipally Maintained?

- Can they tell by a road sign?
- Do they need to look at maps in municipal office or website?
- Do they need a crystal ball?
- If there was a sign, is it still there? – Can it still be seen?

5. Are Officials/Boards/Employees Singing the Same Tune?

- Do planning board, zoning board, governing board, road agent, and other municipal “agents” or “representatives” (official or not):
 - Know and agree on road status and maintenance?
 - Know what to say when asked about status or maintenance?
- Are official statements consistent? Do you know if they are consistent?

6. What Is Done with Notices of Defects?

- Do all people charged with notice know what to do when they see something or have something reported to them?
- Do individuals who are not statutory recipients of notice know what to do if somebody tells them about a problem?
- Is there a system for follow-up?
- Is there a system to follow up on the follow-up?
- What is done with records? [You do keep records, right?]

7. Is it Appropriate to Restrict Road Use by Any Types of Vehicles – Seasonally or Year-Round? If So, Do Municipal Officials Know:

- If it can be done?
- Who does it?
- How is it done? Are there studies required?
- Who is notified?
- What gets posted?
- How is the restriction changed or removed?

8. How Do “New” Roads Get Created?

- By accident or design?
- When does a road shown on a

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plat approved by a planning board become a public road – a municipal road – a maintained road?
–Does everyone know the process?

Policy and Practice Considerations.

In a state with exposure to liability for municipal roads, procedures that set forth municipal practices in light of existing capabilities, particularly in inclement weather conditions, can create some insulation from, or a defense to, claims. In those states in which a notice of insufficiency may trigger liability, a degree of protection may be created by adopting and using policies to establish reporting and tracking procedures for handling and responding to such notices.

Even in states where notice is not a key component in liability, these types of procedures may assist in preventing an accident or damage or injury – which, after all, is a goal all municipalities and municipal attorneys share.

The following policies are premised upon New Hampshire laws which turn on some form of notice being given as a predicate to liability (and, it is hoped, offer some insights about other municipal protocols).

Sample Policy #1. Winter and Inclement Weather Policy and Priorities. Pursuant to RSA 231:92-a, the Board of Selectmen hereby establishes this policy and procedure for winter and inclement weather road maintenance.

Part A: Policy Objectives.

1. *Objective.* The Town seeks to provide timely, efficient and cost-effective winter maintenance, snow removal, and ice control on public highways, bridges and sidewalks under its jurisdiction for the safety and benefit of residents and the general motoring and pedestrian public.

2. *Procedure.* The objective stated in Section 1 may be achieved by implementation and execution of the procedures and tasks outlined in Part B, the Town's Winter Operations Standard Snow Removal and Ice Control Procedures.

[Due to many variables that are inherent in New England weather, each storm or weather event may require different efforts or emphases on maintenance tasks which, together,

In a state with exposure to liability for municipal roads, procedures that set forth municipal practices in light of existing capabilities, particularly in inclement weather conditions, can create some insulation from, or a defense to, claims.

determine the overall winter maintenance, snow removal or ice control strategies]

3. *Level of Service.* It is not reasonably possible to maintain snow- and ice-free roads or sidewalks during a storm. The Town intends to utilize reasonable and feasible effort, within the means available, to provide practical, safe use of municipal facilities during and after winter storms.

(A) As a general policy, the Town will commence snow removal operations upon accumulations of ____ inches of snowfall. The Road Agent may, at his or her discretion, based upon weather information reports or prevailing conditions, elect to not commence snow removal until greater or lesser amounts have accumulated.

(B) Snow removal or road or sidewalk treatment operations may be suspended at any time when continuing operations would pose a hazard to persons or property.

(C) Pre-treatment and ice control may be implemented prior to, during, or after a storm, as determined to be appropriate. Treatment chemicals vary in effectiveness with temperature and will be applied as conditions warrant.

(D) Sidewalk snow clearance will be conducted as soon as practicable, subject to availability of personnel and equipment. The need to maintain safe roadways will generally take priority. The sidewalks which are to be cleared are those located at _____. Property owners may assist the Town in sidewalk safety by clearing snow from sidewalks in front of their properties, provided that the snow so removed is not placed in the streets. *[Note: Any provisions of Part B (oper-*

ating procedures) concerning sidewalks and priority of treatment need to be consistent with this policy statement.]

4. *Direction.* The Road Agent, or the Road Agent's designee, shall direct all winter maintenance activities for the Town.

5. *Implementation.* This policy, including the standard operating procedures set forth in Part B, is intended to serve as the normal procedure for winter maintenance, snow removal and ice control for the Town. One or more of the following events or circumstances, (among other factors) which may delay or prevent the implementation of this policy, may affect all or any part of normal operating procedures:

- Equipment Breakdown
- Snow Accumulation in Excess of One Inch per Hour
- Freezing Rain or Other Icing Conditions
- Traffic Congestion
- Emergencies
- Personnel Illness
- Other Events Beyond the Reasonable Control of the Town

6. *Notice.* This policy may be posted in appropriate public places in the Town as determined by the Selectmen. Residents are encouraged to familiarize themselves with this policy as it describes conditions that one might expect to encounter before, during and after a winter storm event.

*[Part B: **Operating Procedures** is omitted from this article as it would state specific priorities, available equipment and related matters for individual communities.]*

Sample #2. Reporting, Prevention and Notification Policy Sample.

[Note: Adoption of a policy such as this may demonstrate that the municipality is undertaking reasonable preventive practices. Even if a policy is not adopted, it is recommended that a municipality undertake actions as suggested in this sample policy. A policy is preferred as this may invoke "discretionary function immunity."]

Municipal Road and Sidewalk Liability: Avoiding or Lessening Liability through Preventive Policies

As part of the obligations of the Town to carry out its responsibilities and duties of maintaining class V (and IV) roads

and public sidewalks in accordance with RSA 231:90 - 231:93, the (Council/ Board of Selectmen/Manager/Board of Commissioners) adopts this policy.

1. Purpose and Intent. The New Hampshire Legislature has enacted laws to specify conditions under which a municipality may be held liable for insufficiencies in highways and sidewalks which it must maintain. This policy adopts procedures seeking to facilitate compliance with the law and to carry out obligations in a reasonable and meaningful way within the limits of available resources.

2. General Standards. The Town will make reasonable attempts to keep its class V (and IV) roads and public sidewalks free from insufficiencies as defined by RSA 231:90, II. Because of the nature of the municipality and the number of miles of maintained roads and sidewalks, the Town cannot practically assure that all roads and sidewalks will be safe and free from defects of all kinds at all times. Some roads are "rural" roads that are often unpaved and "rough." [*Describe sidewalks, if appropriate*]. While the Town will make reasonable efforts to keep roads safely passable by normal passenger vehicles traveling at safe speeds under then-existing conditions and sidewalks safely usable by prudent pedestrians, operators of motor vehicles and pedestrians are required to exercise due caution and common sense to prevent injury to persons (including themselves) and damage to property.

3. Road Classification. To assist operators in safely using roads, the Road Agent, in cooperation with the (Council/Selectmen/ Manager/ Commissioners), shall inspect and review the existing Municipal road system.

(A) Roads shall be classified according to the following standards:

- Thoroughfares
- Local service roads
- Rural or scenic roads
- Limited use roads
- Roads closed to passenger vehicles.

(B) The classification of a road under paragraph (A) shall not be deemed a guarantee that the road is sufficient at

any given time for use as indicated nor that the road will be maintained to any given standard. Instead, the classification is merely an indication of the general quality of the road and the type of maintenance it usually receives.

(C) The classification of existing roads shall be completed by ___, 20___. Upon completion of the classification, the Selectmen/Municipality Manager shall determine the feasibility and wisdom of posting all or a portion of the road system to indicate road classifications as so designated. Classification shall be updated as frequently as practicable.

(D) As part of this review, the Road Agent shall attempt to post any roads or sidewalks or segments thereof which are observed to contain potential safety hazards that are not reasonably discoverable or avoidable by a prudent user. The (governing board) may determine if it is necessary to take further action beyond posting.

4. Notices of Insufficiency. This section describes usual procedures for handling notices of insufficiency in accordance with RSA 231:90 - :92. These procedures supplement the municipality's inclement weather policy adopted pursuant to RSA 231:92-a and are not intended to replace or impose a higher standard of care than that stated in said policy. Only a notice which conforms in all respects to RSA 231:90 and this policy shall be deemed to comply with that statute.

(A) In accordance with RSA 231:90, a written notice of insufficiency must be delivered to (one of the Selectmen or Village District Commissioners) or the municipal Road Agent (or other title, e.g., Public Works Director) (or in a city, the Mayor or Street Commissioners) with a written copy of the notice provided to the Municipal Clerk. In addition, the municipality delegates the authority to receive notices on behalf of said officials to (insert, for example, staff in the municipal office.) The notice must be signed by the individual(s) providing the notice, and shall contain each signer's name printed legibly, along with the signer's address and telephone number or other means of contact. In addition, the notice shall:

- (1) Contain the date and time of the notice;
 - (2) Contain the date and time at which the insufficiency was observed;
 - (3) Describe, at least in general terms, the location of the insufficiency with such detail as may permit it to be found without undue difficulty; and
 - (4) Describe in reasonable detail the nature of the insufficiency.
- (B) The municipality may provide forms upon which notices of insufficiency may be filed, but an individual need not use that form if the notice conforms to the requirements of law and this policy.
- (C) The municipality encourages other municipal officials and employees who may receive notice of an insufficiency to advise individuals to report the insufficiency as required by law and to advise appropriate officials of conditions called to their attention. However, the municipality cannot assure that any notice which is provided in a manner other than that specified for a formal notice under this section will actually be received by the appropriate official/employee and therefore must require that notices be provided as required by law and this policy.

(D) Upon receipt of a notice of insufficiency, the individual receiving the notice shall first indicate on the notice or an appropriate form the exact time and date on which the notice is received and the identity of the person with whom it is filed. Upon receipt, the (road agent or governing board or other official) shall determine if the notice conforms to the requirements of this policy and the law. It is the municipality's intent to implement action to investigate any claimed notice of insufficiency which is reasonably identified in a notice even if the notice does not formally conform to the requirements of law and this policy, but the municipality does not thereby waive any immunity

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Employment Law Boot Camp (Part II): Handling EEOC Conciliation and Future Litigation, and Considerations For Next Steps

By: Lawrence Lee and Daniel Perkins, Fisher & Phillips LLC.



Recap:

In Part I of this Boot Camp series, we explored the initial charge and investigation process at the Equal Employment Opportunity Commission through a fictional example involving the City of Wonderland Police Department and a former female police captain, Catrina, who filed a charge alleging sex, national origin, age, and disability discrimination. You may recall that as the City Attorney, you were tasked with investigating and responding to Catrina's charge in an effort to resolve the matter at the administrative stage. But, what happens when early resolution attempts are unsuccessful? At the EEOC, the agency file will then get transferred to an investigator. What are your rights and responsibilities, and what are those of the charging party? The answer often depends on how the EEOC resolves the charge. Astute employment counsel must plan for any eventuality, as the course of future litigation or resolution efforts depend greatly on your understanding of how the process works.

What are the different things that can happen with the EEOC's Investigation?

When we left off with Catrina's charge in Part I, we had examined the intricacies of the EEOC's investigation and how you, as the handling Attorney for the City of Wonderland, could best address the claims and allegations to maximize your chances of a favorable agency decision. But once the investigation is over, what is it that the EEOC can do with the information it has gathered? At the end of an investigation, the EEOC makes a determination on the merits of the charge. Not surprisingly, the range of outcomes of the EEOC's investigation is greater than merely a favorable or unfavorable finding.

How the EEOC characterizes the investigation results can be very important to the ultimate resolution of the charge and to any litigation that might follow. If, at the end of its investigation, the EEOC concludes that the information obtained does not establish a violation of the law, the charging party will be issued a letter called a "Dismissal and Notice

of Rights." This informs the charging party that he or she has the right to file a lawsuit in federal or state court within 90 days from the date of receipt of the letter. Putting aside situations in which a charge is resolved by private settlement or administrative closure (which includes a variety of non-merits-based reasons), the "Dismissal and Notice of Suit Rights" (commonly referred to as a "No Cause" Determination) is the most common investigation result. In Fiscal Year 2014, 66.5 percent of all charges alleging Title VII discrimination claims (sex, race, color, national origin, and religion), and 59.4 percent of all charges alleging violations of the Americans with Disabilities Act, nationally, resulted in "No Cause" Determinations.

These findings are the most desirable for respondents, like the City of Wonderland, because they are issued after the EEOC has investigated and looked at the available evidence. A "No Cause" Determination provides a sense of validation to the accused employer, but more importantly, it forecloses the possibility of further EEOC involvement in the employment dispute. While a charging party still has the right to bring her claim before a court of law, the "No Cause" Determination means that neither the EEOC nor the U.S. Department of Justice will bring that case on the charging party's behalf. Therefore, if the charging party wishes to seek judicial relief, she must find an attorney and pursue the matter at her own expense. Quite obviously, the "No Cause" Determination is the prime objective for all respondents in these matters.

The outcome the City of Wonderland and all respondents work to avoid at all costs is the "Reasonable Cause" Determination which is communicated to the parties through a "Letter of Determination." As the name implies, this type of finding occurs when the EEOC's investigation reveals significant problems with the employer's position such that there is reason for the EEOC to believe that discrimination has occurred. While these findings stop short of determining that discrimination *actually* occurred, they are troublesome to respondents because they trigger further intrusive EEOC administrative processes and carry the threat of culminating in

litigation brought by the EEOC itself (or the U.S. Department of Justice) on the charging party's behalf. "Reasonable Cause" Determinations carry with them increased expenses and invariably mean that if the matter is to be resolved without court involvement, the resolution is likely to be expensive. But perhaps the most misunderstood consequence of a "Reasonable Cause" Determination is the triggering of the EEOC's obligation to exhaust its resolution efforts through the process of conciliation.

What is Conciliation and Why Should we consider it?

If the EEOC issues a Letter of Determination, the letter will include an invitation to the parties to join the agency in seeking to settle the charge through an informal and confidential process known as conciliation. Conciliation is a voluntary process that resembles mediation, but without the neutral third party communicating settlement offers and responses. The parties must agree to any resolution negotiated through conciliation and neither the EEOC nor the respondent can be forced to accept any particular terms. The EEOC is required to attempt to resolve its findings of discrimination on charges through the conciliation process prior to bringing any action in court. In other words, the "conciliator" is the EEOC, usually the investigator that had recommended a finding of reasonable cause of discrimination. Recently, the Supreme Court affirmed federal courts' authority to review the adequacy of the EEOC's conciliation efforts, putting more pressure on the federal agency to ensure that the Commission gives employers an opportunity to resolve claims before the courts get involved. See *Mach Mining, LLC v. EEOC*, 575 U.S. ____ (2015).

For many employers, conciliation feels like a forced settlement. Often, the terms initially offered are draconian, consisting of expensive training obligations, conspicuous postings of employee rights, and most significantly, a substantial monetary payment to the charging party. While it is true that resolution of a charge through conciliation generally carries greater obligations on the employer and larger monetary payments than a private settlement of the claim,

Compared to defending a lawsuit, conciliation may be the more efficient, effective, and inexpensive method of resolving employment discrimination charges, despite some of the frustrations in dealing with what appears to be unreasonable demands for settlement by the charging party and her counsel.

resolution through the administrative conciliation process often cost respondents far less than litigating the matter at a later time in court. Furthermore, the EEOC strongly encourages parties to take advantage of the conciliation opportunity because the next step is for the EEOC to consider the matter for litigation. Finally, if a charge is not resolved through the conciliation process, then the EEOC, itself, may step in the shoes of the charging party and sue the employer with the help of the Commission's litigators. Compared to defending a lawsuit, conciliation may be the more efficient, effective, and inexpensive method of resolving employment discrimination charges, despite some of the frustrations in dealing with what appears to be unreasonable demands for settlement by the charging party and her counsel. The tricky part of conciliation is, if the charging party is represented by an attorney, the opposition may have a "pie in the sky" initial settlement demand simply because the claimants and her counsel know that the EEOC had already found cause and has now been emboldened to push the envelope in conciliation for a more than ridiculous monetary settlement demand. In such situations, it is critical that the employer's counsel get fully prepared to call the charging party's lawyer to the mat at the conciliation when an initial six-figure settlement offer is made through the EEOC.

How to Approach Conciliation.

If the EEOC makes a "Reasonable Cause" Determination against the City of Wonderland, the responsible City employment

counsel should first approach the decision of whether to participate in conciliation by putting aside any personal feelings about the determination. For example, the City of Wonderland's Police Chief may be disappointed that the personnel issue made it this far through the EEOC process and now has disdain for Catrina, who was provided an inordinate amount of peace officer training, promotions and support over her long tenure. Once the Letter of Determination is issued, there is no opportunity to reargue the finding and, despite any disagreements with the propriety of that finding, the task at hand is to determine the best way to resolve the matter. In some instances, conciliation may not make sense. Start with a thorough review of the Letter of Determination and any specific factual findings to which the EEOC points in support of its conclusions (there may not be much). Do an honest analysis of the agency's reasoning, including critically reading and checking the cite history of any cases cited by the investigator in support of the findings. It is not uncommon for the EEOC to view crucial facts in a manner that is calculated to provide support for the charging party's side of the dispute; however, the reviewing city attorney should honestly evaluate the reasoning, putting aside any natural biases. Furthermore, the astute employer's counsel will understand that "easy" defense cases rarely reach the conciliation phase; in cases that reach conciliation, there is usually one or more sufficiently adverse facts that regardless of the finding, if the matter ends up in court, it will present a challenge to defend.

If any reasoning and factual support cited in the decision reasonably support the decision, then it may make sense to take advantage of the conciliation process. First, the respondent loses nothing by listening to the demands of the charging party and the EEOC. There is no compulsion to agree, and if the conciliation process fails, the worst that can happen is that the federal agency files suit, a prospect that is equally likely if conciliation had been refused in the first place. It should be noted that in Fiscal Year 2014, the EEOC reported 1,138 unsuccessful Title VII conciliation efforts and filed 76 lawsuits with Title VII claims. Thus, less

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than 10 percent of unsuccessful conciliations resulted in lawsuits filed by the agency. Of course, this statistic does not include private lawsuits filed by charging parties, which are decidedly more common. Although the threat of litigation initiated by the EEOC may be relatively low, private lawsuits are substantially more likely when a Reasonable Cause Determination has been made.

Second, conciliation inevitably delays the EEOC's decision about on whether or not to file suit and further delays any suit that might be brought by the charging party on her own. This additional time may be used effectively to prepare for an eventual civil suit, whether that suit is filed by the EEOC or the charging party. When litigation is imminent, additional time to prepare can be critical to a defendant's success.

Finally, conciliation offers substantial opportunity to resolve a troublesome charge without the unpredictable and emotional involvement of judges and juries. While the resolution may be more onerous and more costly than a similar private settlement obtained before the EEOC's determination, the process offers some certainty of resolution at a "reasonable" price. Conversely, future litigation could easily result in substantial defense fees and ultimately, an unfavorable jury verdict punctuated by high compensatory damages awards that are invariably the product of juror emotions.

Given that conciliation is voluntary and carries no obligation to agree, there is almost no downside to participating if a "Reasonable Cause" Determination is issued; but it can be a frustrating process and test of the employer's patience. The conciliation process, however, provides one last bite at the apple to settle a difficult case containing unfavorable evidence against the employer before the higher-stakes game in a federal lawsuit, and if approached rationally and open-mindedly, conciliation can serve to resolve these cases at a much more reasonable price than litigation will provide.

Litigating Discrimination Claims in Court.

In some cases, however, litigation cannot be avoided: An irrational or angry charging party and an opposing counsel that is a "true believer" will not listen to a reasonable offer, or the EEOC won't budge on its back pay request and training requirements. In such instances, the employer may have no choice but to litigate. In some of those instances, the litigation may be commenced by the EEOC on the charging party's behalf, but in the overwhelming majority of instances, any litigation that results from a charge of discrimination will be a private lawsuit filed by the charging party and his or her attorney. The approach to a government lawsuit can be quite different than a typical private suit. For example, the City of Wonderland's decision-makers, whether it is the mayor or a delegated authority, may direct their employer's counsel to defend the case to the bitter end so as to send a message to other police officers thinking about filing a claim that the City is willing vigorously defend against claims filed by employees. Or, perhaps, one member of city council will be so offended by Catrina's disparaging statements made against the City of Wonderland that he or she will harbor negative feelings and take the Reasonable Cause Determination personally. Although reasonable minds usually prevail, the temptation to take an aggressive stance against the EEOC and a Charging Party for a claim that has been determined as one of reasonable cause is usually pretty high and requires an objective legal assessment of options and potential outcomes.

Litigating Discrimination Lawsuits against the EEOC and Private Litigants

Lawsuits filed by the EEOC are rare occurrences and have become rarer in the past several years. The average number of lawsuits filed by the agency has hovered around 150 per year since Fiscal Year 2012, approximately half the average total number of lawsuits filed each year between 1997 and 2012. Nevertheless, if a charge resulting in a Reasonable Cause Determination is not resolved, either through private settlement or

thorough the EEOC's mediation or conciliation efforts, the respondent employer risks facing an agency-driven civil lawsuit.

Whether the EEOC will file suit on behalf of the charging party depends entirely on the review of the matter performed by agency attorneys and criteria determined by each EEOC office's regional director. While any case could be at risk for an agency-driven lawsuit, the likelihood of such action is greatly increased in instances where: (1) there are class action issues or multiple plaintiffs involving a pattern or practice of bad behavior; (2) the respondent employer is a large or well-known company; (3) novel or unprecedented issues exist which might provide the EEOC with an opportunity to achieve favorable court resolution to advance the agency's policies; or (4) the respondent employer has a history of having meritorious charges filed against it. This is not to say that the absence of any/all of these four factors will ensure that the EEOC won't file suit on the charging party's behalf. There have been instances in which an agency-directed lawsuit is filed on behalf of an individual charging party in what appears to be a routine and unremarkable case. For whatever reasons, occasionally, the EEOC chooses to champion a case that otherwise does not meet its usual criteria. Employers, private and public, should not assume that their case will not draw the attention of the EEOC's litigation unit.

In any lawsuit brought by the federal government, the dynamics are significantly different than in private lawsuits brought by charging parties. First, the EEOC has the benefit of having worked up the case for many months with information provided by both sides. The charge investigation process allows free discovery for the EEOC and provides a solid base from which to establish the agency's theory of the case. In many instances, EEOC-driven lawsuits may focus less on discovery of the particular facts pertaining to the charging party, but more heavily on the employer's past employment practices, its policies, and the broader impact of those policies and practices on the employer's employees.

Second, the EEOC is a federal government agency with the full power, force, and resources of the federal government behind it. Because the agency files so few lawsuits, it can afford to litigate discovery disputes and other issues that can be less intrusive in private lawsuits. While the costs associated with litigating these disputes against the EEOC may not rise as dramatically for municipal employers like the City of Wonderland as they do for private sector employers that must hire and pay outside counsel, the EEOC's methodical and measured approach to litigating its cases can prove wearisome and onerous. When litigating such cases, the responsible City Attorney should be prepared for a thorough and prepared opponent who is guided by objectives that are meant to achieve relief for both the charging party and the agency. Therefore, injunctive relief and other relief not specific to the charging party will often be sought.

Any employer's counsel, whether on the City payroll or external counsel, should approach a government-initiated lawsuit with an understanding that addressing the claims of the individual employee is only the tip of the iceberg. The EEOC will push for non-monetary concessions, including the posting and training requirements it sought during conciliation. Any resolution short of a defense verdict or successful dispositive motion will have to include these considerations. Furthermore, the government will seek to defray its costs by seeking attorneys' fees and, if the case is brought in conjunction with a private suit, there will be a request for fees by the plaintiff's private attorney as well. It doesn't take much to see that litigating against the EEOC can get expensive and cumbersome very quickly. In all such cases, therefore, the City Attorney should seek to limit the issues in the case as much as possible to the individual plaintiff's circumstances.

The fact that lawsuits by the EEOC may be difficult and expensive does not imply that the reverse is true for private lawsuits. Although the added layer of federal government bureaucracy may not be present, private lawsuits – which account for the vast majority of discrimination claims that appear in court – may be equally contentious and expensive. In almost all such cases, when the EEOC has found Reasonable Cause,

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the EEOC's Letter of Determination may become an important evidentiary issue. Plaintiffs will want to introduce that letter as evidence of discrimination, while defendants universally seek to exclude the letter as inadmissible hearsay. Most courts will permit the letter's introduction into evidence for dispositive motion and trial purposes, a fact that should be heavily considered at the outset, as inclusion of the letter often destroys the chances of filing a successful summary judgment or other dispositive motion and may highly influence any jurors who hear the case.

Any employer's counsel should have a firm grasp on the facts of the case by virtue of thorough and thoughtful collection of evidence during the EEOC's investigation. Any harmful facts or facts that will be contested should be outlined and studied so that the attorney for the City can devise a theory of the case that minimizes the importance of such facts and highlights the favorable facts. Thorough discovery on these points is crucial to successfully defending a discrimination claim, and a well-conducted deposition can be the difference between achieving summary judgment and facing trial. In all such cases, a methodical approach is recommended.

Initial Case Considerations.

When the lawsuit is received, the City Attorney should meticulously review the claims for any potential defects or affirmative defenses and develop a plan to attack each individual claim. Any claims that arguably can be attacked on a motion to dismiss should be flagged and considered for such a motion to narrow the important issues and focus the case on the claims that truly matter. The attorney must carefully consider affirmative

defenses and always include the "mixed motive" defense that the challenged employment action(s) would have occurred whether or not any discriminatory animus existed. This defense, if sufficiently proven, may allow a defendant found liable for discrimination to avoid damages (but not attorneys' fees).

Discovery Issues

Once the plan of attack is devised and the answer has been filed, the attorney must undertake carefully constructed discovery to support its plan. In most cases, the liability evidence is readily available. In employment disputes like Catrina's most of the documentary evidence will already be in the Defendant City's possession. Items such as performance reviews, employment history, prior discipline, etc., are often found in the defendant's own records. Furthermore, investigation reports, witness statements, and other event-specific evidence often is available in the EEOC's investigation file. Therefore, the majority of discovery, both written and oral, will focus on three areas: (1) defining the discriminatory conduct; (2) plaintiff's allegations of damages; and (3) efforts to reduce or mitigate damages.

With respect to the first item, plaintiffs through counsel often file complaints that contain general allegations of discrimination only, and their EEOC charges often contain little additional detail. Although the EEOC's investigation file may contain additional allegations and specific facts, in most instances, defense counsel will not have a firm grasp on *all* of the acts by his/her client that the discrimination plaintiff contends contributed to the discrimination he/she allegedly suffered. The City attorney can utilize written discovery first to inquire into the number of discriminatory acts, a description of them, the identities of witnesses to such acts, and a variety of additional useful information to begin narrowing the scope of the discrimination claim.

In addition, employer's counsel will want to send interrogatories inquiring into medical/psychological treatment for alleged mental anguish, as well as document requests for doctor's/counselor's notes, bills, etc. In situa-

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tions involving plaintiffs that have been terminated, like Catrina, employer's counsel must not forget to inquire into the plaintiff's job hunting efforts and ask for documentation of those efforts, such as job applications, cover letters, evidence of interviews and networking efforts, new employer records confirming salary/wages and other benefits, and a host of other items that can be used to challenge a plaintiff's allegations of damages.

Some cases may involve expert testimony, such as economics experts who will opine about the plaintiff's future earnings and earning capacity and make calculations intended to establish the plaintiff's damages. In other cases, the plaintiff might retain an expert in counseling or psychology who will discuss the "devastating impact" of the discriminatory act(s) of the defendant on the plaintiff and validate his/her request for exorbitant compensatory damages. In such cases, employer's counsel should be prepared to retain defense experts or rebuttal experts to challenge those opinions and offer explanations that support more reasonable damages numbers.

Depositions

In most single-plaintiff cases, the employer's counsel will have few depositions to take. Usually, the plaintiff will be deposed and perhaps a witness or two. Counsel should carefully plan depositions around information obtained in written discovery. Again, much of the plaintiff's deposition should be devoted to ferreting out all allegedly discriminatory acts and locking down the plaintiff's allegations so that the universe of discriminatory conduct is explicit and can be directly addressed in dispositive motions or with counter-evidence at trial. The goal is to know everything the plaintiff will put before the jury so that there are no surprises or allegations that the defense attorney has not already heard and prepared for. Additionally, deposition of the plaintiff can be used to test the reasonableness of efforts to reduce actual or compensatory damages through job-searches and medical/counseling treatment. For instance, if Catrina testifies that she saw a counselor twice a week for a year to address her

severe mental anguish over being discharged from the City of Wonderland's Police Department, her testimony may seem reasonable at first blush. However, at the deposition, Catrina may very well testify that despite her counseling, she did not seem to get any better, but kept going to the counselor because she was hoping it would eventually help. At trial, a shrewd employer's counsel might argue that Catrina's continued counseling with that same counselor for a year was unreasonable because it clearly wasn't working, yet she failed to do something else, such as medication or a new counselor, to try to mitigate her damages.

Therefore, it is critical that a City attorney or employer's counsel that is defending or overseeing an employment discrimination lawsuit have a strong knowledge of the underlying facts and a firm grasp on the important legal issues to maximize the City's chances once the matter moves from the administrative EEOC process to the judicial system in state or federal court.

Conclusion

There is no guarantee that the City of Wonderland will successfully resolve Catrina's allegations with the EEOC. While the City can point to Catrina's foul language and her violation of workplace rules as legitimate reasons for her discharge, Catrina has good evidence concerning the proximity of her harassment complaint and the date of her discharge. In our example, Catrina's early settlement – before filing her charge – may preclude her from suing if the charge is not resolved; however, it cannot preclude the EEOC from investigating, issuing a Letter of Determination, and bringing suit on its own. The City of Wonderland must plan for any eventuality and be prepared to litigate should informal attempts to resolve the matter fail. The discrimination arena is fraught with landmines that can sink even the most well-intentioned attempts to resolve EEOC claims. Preparation, forethought, and knowledge of the process is key to successfully defending against such claims and achieving a resolution that is best for the local government. **ML**



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Missouri v. Harris: California's Eggs-traterritorial Reach

By: Tukie Falade, IMLA Associate Counsel

As U.S. consumers become increasingly conscious of the origins and quality of the food they eat, states are enacting legislation to address animal welfare and food safety concerns. Given the broad scope of the industry, food safety laws in one jurisdiction often impact producers and consumers in another. Consequently, these laws raise important legal questions about the extent to which a state may regulate food production when such regulation impacts commercial activity outside its borders. More specifically, food safety laws implicate the so-called “dormant” Commerce Clause, which implicitly prohibits states from regulating interstate commerce. Lawsuits seeking to enjoin these statutes will ultimately shape the boundaries within which states and local governments may regulate food production extraterritorially.

As a case in point, a California law regulating the production and sale of eggs recently gave rise to a federal lawsuit. At issue in *Missouri v. Harris*¹ is a 2010 California statute² which prohibits the sale in the state of shelled eggs for human consumption, if they are produced by hens confined in a manner such that they are unable to lie down, stand up, fully extend their limbs and turn around freely.³ The statute requires a minimum of 116 square inches of space per bird, which is nearly twice the current industry standard of 67 square inches.⁴ In effect, the law requires all egg producers nationwide, regardless of where they are located, to comply with California's animal care standards as a condition of selling eggs in the Golden State.

In an effort to enjoin enforcement of the law, six of the largest egg producing states ~ Missouri, Alabama, Iowa, Kentucky, Nebraska and Oklahoma ~ brought suit in federal district court on Commerce Clause grounds.⁵ The plaintiffs contend that the statute is unduly burdensome because it would force out-of-state farmers to “forgo California's markets altogether or accept significantly increased production costs just to comply with California law.”⁶ The plaintiffs sued under the theory of *Parens Patrie*, which permits a state to invoke federal jurisdiction if it can assert an injury to a “quasi-sovereign interest,” meaning an injury to a “sufficiently substantial segment of its population.”⁷

The federal district court in California's Eastern District did not reach the merits. It found that the plaintiffs lacked standing because they failed to show how a large segment of their state populations would be injured by the California statute, noting that the law would only apply to egg producers in their states, not all citizens.⁸ Moreover, the court was unpersuaded by the plaintiffs' claim that the law would increase the cost of eggs, thereby harming consumers in their states. The court reasoned that a potential increase in egg prices was too speculative to establish a showing of injury sufficient for standing under *Parens Patrie*.⁹ Accordingly, the court dismissed the case without leave to amend.¹⁰ The plaintiffs appealed, the results of which are still pending.¹¹

Meanwhile, the law went into effect on January 1, 2015.

This article will evaluate the merits of the Commerce Clause challenge to California's egg law and discuss the implications of the law, if upheld.

The Commerce Clause grants Congress the authority “[t]o regulate commerce... among the several states.”¹² This express grant of authority to Congress has been interpreted as an implicit prohibition on the states' ability to regulate interstate commerce, even when Congress has not acted.¹³ This implied limitation is known as the “dormant” aspect of the Commerce Clause. As a general rule, state and local laws are unconstitutional if they place an undue burden on interstate commerce.

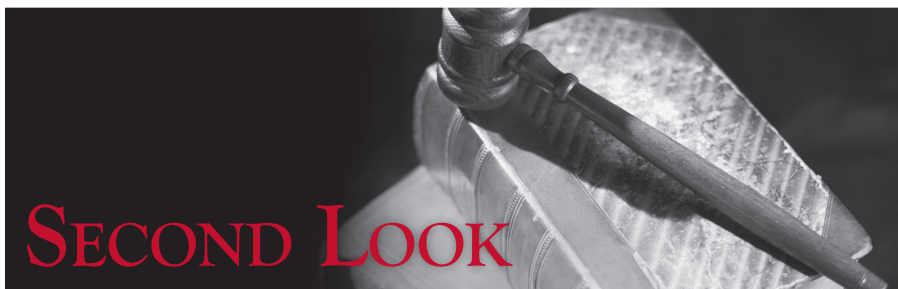
The conventional approach to analyzing Commerce Clause claims is two-fold. First, a court must determine if the state or local law discriminates against out-of-state actors, either on its face or in purpose or effect. All laws having a discriminatory commercial effect are *per se* invalid, and will only be upheld if necessary to achieve an important purpose that cannot be served by alternative nondiscriminatory means.

Second, if the state law is not discriminatory, a court must conduct a balancing test, articulated by the Supreme Court in *Pike v. Bruce Church, Inc.*¹⁴ Under the *Pike* test, a nondiscriminatory law will be upheld if its burden on interstate commerce is outweighed by the benefits of the law.

The California egg law is facially neutral because it makes no distinction based on the origin of the eggs. However, a facially neutral law can be invalidated if its purpose or effect is to discriminate against out-of-state interests. The stated purpose of the law is to “protect California consumers from the deleterious, health, safety, and welfare effects of the sale and consumption of eggs derived from egg-laying hens that are exposed to significant stress and may result in increased exposure to disease pathogens including salmonella.”¹⁵ The complaining states disagree, alleging that the law was enacted as a protectionist measure to “level the playing field” for California farmers, who would be competitively disadvantaged if out of state egg producers were not subject to the same restrictions.¹⁶ However, a review of the legislative history does not support this contention.¹⁷ As such, it does not appear that the law was enacted with discriminatory purpose.

There are two principles developed through the case law that determine if a law has a discriminatory effect. A law

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Controlling a Local Government's "Expert" Employee

by Pete Haskel, Executive Assistant City Attorney, Dallas, Texas

Cities and other local government organizations (LGOs) are blessed with many employees who are experts in their fields. These valued employees can (and sometimes do) qualify as expert witnesses under Federal Rule of Evidence 702 and state equivalents. They also often serve as consulting experts in anticipation of and during litigation to which their LGO employer is a party. However these valuable employees¹ can also present problems for government litigators. There are many contexts in which such problems might arise, but here are three:

1. A litigation party's lawyer wants to use to use the expert employee as an expert witness in an action to which the LGO is not a party (but may be a potential party or may have an interest in the outcome).

2. The government is not a party to litigation and the employee wants to "moonlight" for one of the parties as a consulting or testifying expert in the same field as the employee's government work.

3. The government is a party to litigation, has not designated the employee as an expert but opposing counsel (or maybe even another party on the same side of the "v") wants to depose or call as a trial or hearing witness the employee and elicit the employee's expert opinions.

Here are some considerations for addressing such problems – but no simple solutions.

Experts Unaffiliated with a Party Cannot be Involuntarily Subpoenaed.

Federal Rule of Civil Procedure 45 provides in relevant part:

To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

Fed. R. Civ. P. 45(d)(3)(B).

Several states have similar rules or judicial doctrines – often with exceptions for compelling need or similar situations.

See generally, Annot., *Right of independent expert to refuse to testify as to expert opinion*, 50 A.L.R.4th 680 (Originally published in 1986) (viewed on WestlawNext, May 14, 2015). However, does an LGO have standing under Rule 45 and state law counterparts to move to quash a subpoena directed at an employee for expert testimony? Rule 45 motions should work if the employee does not wish to testify under subpoena – but what if the employee wants to testify? Perhaps the motion belongs exclusively to the employee? I have found not cases on point. But the LGO could probably make the employee use vacation time and, unless the employee were an "always on duty" peace officer

or the like, perhaps ask the employee to emphasize that the witness was not speaking for the government.² Could the LGO seek protection from the court such as a finding, jury instruction, or other measure to the effect that the employee's opinion was the employee's alone and not necessarily the official view of the LGO? This might insulate the LGO from later use of the testimony as a statement of an employee within the scope of employment. See Fed. R. Evid. 801(d)(2)(D). But I have never heard of a court granting such relief for the benefit of a non-party. Perhaps the most effective approach would be to suggest to the attorney for the party against which the employee would be testifying that cross-examination questions that emphasized that the witness was not representing the position of the LGO would weaken the impact of the witness' opinion.

Personnel Rules on Moonlighting and First Amendment. LGO's usually have broad latitude to adopt personnel rules that prohibit or limit off-duty employment – particularly employment related to the employee's government job. Of course state law, collective bargaining agreements, and other local considerations can limit that power. But what additional restrictions on that power of LGOs might flow from the First Amendment as applied to regulating employees' expert testimony on a subject related to their employment? The Supreme Court has stressed

the importance of the relationship between the speaker's expressions and employment. A government entity has broader discretion to restrict speech when it acts in its role as employer, but the restrictions it imposes must be directed at speech that has some potential to affect the entity's operations.

Garcetti v. Ceballos, 547 U.S. 410, 418 (2006). See generally, Annot., *Governmental control of actions or speech of public officers or employees in respect of matters outside the actual performance of their duties*, 163 A.L.R. 1358 (originally published in 1946) (viewed on WestlawNext May 14, 2015)(collecting

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cases). There is little question that a public employee's fact testimony at a trial (at least at a criminal trial and at least under subpoena) will be protected by the First Amendment if the employee's routine duties do not include testifying. *Lane v. Franks*, 134 S. Ct. 2369, 2378 (2014) ("[t]ruthful testimony under oath by a public employee outside the scope of his ordinary job duties is speech as a citizen for First Amendment purposes"). Will *Lane* also apply to expert opinion testimony related to but not in the course of a government employee's job? Will it matter whether the employee was compensated as an expert?

Sixteen years before *Lane v. Franks*, the Fifth Circuit sustained a preliminary injunction against enforcing this State of Texas policy on the ground that it discriminated against speech based on content:

Because of an inherent conflict of interest, none of the funds appropriated by this Act shall be expended in payment of salary, benefits, or expenses of any state employee who is retained as or serves as an expert witness or consultant in litigation against the state, unless the state employee serves in that capacity on behalf of a state agency on a case in which the state agency is in litigation against another state agency.

Appropriations Act 1997-99, art. IX, § 2(5); Tex.Sess.Law Serv. at 6352, *quoted in Hoover v. Morales*, 164 F.3d 221, 223-24 (5th Cir. 1998). Six years later the same court sustained claims of civil rights conspiracy arising from Texas A&M's retaliation against instructors who gave expert testimony for the plaintiffs in a civil rights excessive force case. *Kinney v. Weaver*, 367 F.3d 337, 361 (5th Cir.) (en banc), *cert. denied*, 543 U.S. 872 (2004). However, the Ninth Circuit has established a slightly less pro-employee standard, and apparently would only protect expert testimony given under subpoena if the testimony related to a matter of "public concern," *Clairmont v. Sound Mental Health*, 632 F.3d 1091, 1105 (9th Cir. 2011), relying on *Connick v. Myers*, 461 U.S. 138 (1983), and related

case law. With that qualification, however, the Ninth Circuit's approach is similar to that of the Fifth Circuit.

I suspect that *Lane v. Franks* will not weaken the First Amendment protections granted by such decisions to truthful opinion testimony by local government employees, even if the testimony relates to the same subject for which the LGO employs them. However, "false statements knowingly or recklessly made" may not be entitled to protection. *Pickering v. Bd. of Ed. of Tp. High Sch. Dist. 205, Will County, Illinois*, 391 U.S. 563, 574 (1968) – if the LGO or a maligned supervisor can prove "malice"

State and Local Ethics, Conflicts and Unlawful Gratuity Standards.

However, if an LGO were careful to avoid content-based prohibitions, it might be permissible to bar an employee from receiving compensation for expert testimony, or to enter into a contract with the party soliciting the employee's testimony, depending on the precise terms of applicable laws and rules on conflict of interests and unlawful gratuities. *Cf., In re Air Crash Disaster at Detroit Metro. Airport on Aug. 16, 1987*, 737 F. Supp. 399 (E.D. Mich. 1989) (denying on ripeness and standing grounds motions of airline and aircraft manufacturer for judicial declaration that former branch chief of aircraft systems in FAA and FAA employee involved in certification of aircraft could testify as expert witnesses without violating Ethics in Government Act). For example, it might be impermissible for a building inspector to enter into a contract with a developer on whose projects the inspector often works, or to accept payment for testimony closely related to the employee's work. Elimination of the profit incentive may or may not reduce the employee's interest in testifying – but enforcement must not be aimed primarily (or perhaps at all) at this result.

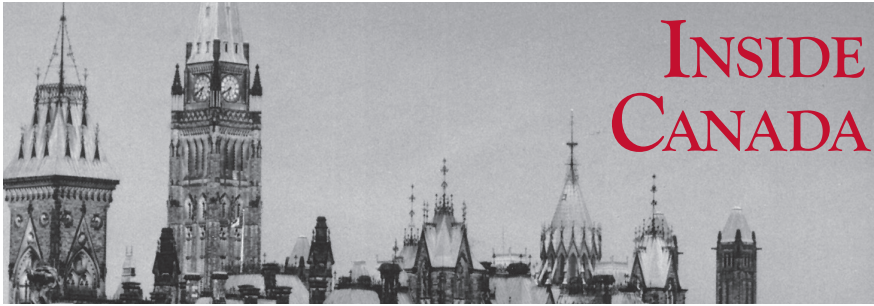
The Federal "Housekeeping" Rules Approach. Nevertheless, several federal agencies attempt to restrict employee testimony by adopting regulations under the purported authority of the so-called federal "housekeeping" statute, which generally empowers departmental secretaries to control agency records and employees. 5 U.S.C. § 301.³ However, at

least since a 1958 amendment added the last sentence to section 301, courts have often (perhaps usually) rejected broad federal agency assertions that regulations adopted under the statute can validly allow an agency head to refuse to make department employees available to testify under a valid subpoena in litigation to which the United States is not a party. *See, e.g., Exxon Shipping Co. v. U.S. Dept. of Interior*, 34 F.3d 774, 777 (9th Cir. 1994) (with annotated explanation of legislative history); Federal Rules of Evidence, *Official Information—The Housekeeping Act*, 26A Fed. Prac. & Proc. Evid. § 5682 (1st ed.), viewed on WestlawNext May 14, 2015) (thorough discussion of § 301 history and application).

Consistent with the idea that expert opinion testimony cannot usually be compelled, some federal agencies persist in resisting subpoenas for their employees' expert testimony in cases where the United States is not a party. For example, the SEC General Counsel has the purported power to limit "non-expert, non-privileged, factual ... testimony" by SEC employees, in such cases, but not to authorize employees' expert testimony. 17 C.F.R. § 200.735-3(b)(7)(ii), (iii). I have not found an opinion invalidating that approach.

Litigation Where Government Employer is a Party. What discovery rule or likely protective order might prevent the following scenario: The opposing party discovers the identities of the key city employees who might have expertise on a subject relevant to litigation, via interrogatories, depositions, or even pre-litigation open records requests. The opponent then deposes each of those employees looking for someone who disagrees with the LGO's position on any key issue or who has a low opinion of the LGO's designated expert's expertise. The opponent will run no appreciable risk in eliciting answers favorable to the LGO – the LGO would be unlikely to find any way to get those statements in evidence except perhaps under the rule of optional completeness if the opposition were to introduce only portions of a witness' deposition. *See Fed. R. Evid. 106*. Any jurors would expect LGO employees to

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Cases of Interest

By Monica Ciriello, Student-at-Law

City Permitting Accumulation of Ice and Snow on Sidewalk Is Grossly Negligent

Bramer v. City of Hamilton, 2015 ONSC 713 (CanLII) <http://canlii.ca/t/gj3mr>

The plaintiff slipped and fell on a sidewalk in the City of Hamilton in 2009. The plaintiff alleges that the City is grossly negligent in failing to maintain the surface of the sidewalk in a safe and proper state of repair, permitting an accumulation of ice and snow contrary to the City's own bylaw and therefore liable pursuant to s.44 of the *Municipal Act*. The plaintiff further alleges that the City was negligent in failing to maintain in a proper state of repair a metal pedestrian handrail that ran beside the sidewalk in question. The City admits that the sidewalk in question falls within its responsibility to maintain, but denies any negligence. The City claims to have exercised reasonable care in discharging its responsibilities either in respect of the sidewalk surface or in respect of the handrail.

HELD: The City is liable to the plaintiff

DISCUSSION: Section 44(9) of the *Municipal Act* renders a municipality liable for personal injuries caused by snow or ice on a sidewalk only in a case of gross negligence. As indicated in *Crimson v. Toronto (City)* 2010 ONCA 44 gross negligence is more than just a breach of duty of care, which is determined upon the facts of each particular case. It has long been recognized in Canadian case law that citizens in Canada must

be taken as being familiar with Canadian winters and be taken to know that sidewalks and streets can be slippery at that time of the year. Nevertheless, the Court held that the defendant was grossly negligent. Its employees did no snow removal, or sanding or salting for many days prior to the fall, during which time snow accumulated on a particularly steep and well-used sidewalk. The City also failed to utilize independent contractor services available in the five days before the fall. The Court concluded that the facts of this case squarely fall within the parameters of gross negligence as described in *Crimson*.

With regards to the handrail, the failure of the defendant to properly maintain its pedestrian handrail in a proper and useable condition is appropriately considered as a factor supporting the finding of gross negligence on the part of the City. The condition of the handrail did not cause the fall; the snow and ice did. A handrail in proper condition may well have prevented the fall, just as proper snow removal and salting and sanding may have. The Court considers the unusable condition of the handrail to have been proven, but it is an element supporting the finding of gross negligence, rather than being a separate actionable wrong upon proof of simple negligence in failing to maintain it.

School Trustee Reinstated Despite Missing Municipal Elections Act Deadline
Singh v. Peel District School Board and The Clerk of The City of Brampton/ Corporation of The City of Brampton, 2015 ONSC 3092 <http://canlii.ca/t/gj16t>

Gurratan Singh and Harkirat Singh were candidates in the municipal election for the City of Brampton. Both applicants campaigned together and shared campaign resources and expenses. As required under s.78 of the *Municipal Elections Act* "MEA" the applicants were required to file with the Clerk of the City of Brampton a financial statement and an auditor's report reflecting the revenue and expenses of their election campaigns by 2:00pm on March 27, 2015. After a mix-up, Harkirat ended up filing his financial statements and auditor's report five days late and Gurratan was six days late. The MEA set out consequences of failing to comply with these provisions in that under s.80(1) and (2), a candidate who fails to comply with s. 78 forfeits any office to which he or she was elected, the office is deemed vacant, and the candidate is ineligible to be elected or appointed to any office to which the MEA applies until the next regular election has taken place.

Harkirat was successful in his campaign and was ultimately removed from his position, and Gurratan (an unsuccessful candidate) was prevented from running for any office until after the next election. The applicants each sought an order granting them relief against penalties imposed by the MEA for having failed to file a financial statement by the established deadline.

HELD: The City should extend the deadline for filing.

DISCUSSION: In granting the candidates their requested relief from forfeiture, Justice Woolcombe applied the test established by the Supreme Court of Canada in *Saskatchewan River Bungalows Ltd. v. Maritime Life Assurance Co.*

Justice Woolcombe indicated that the applicants could have exercised greater due diligence to ensure the documents were submitted in accordance with the MEA. However, their conduct was a far cry from that described in *Ecker v. Hamilton-Wentworth Catholic District School Board* 2012 ONSC 2246, where in declining relief in a similar situation, the court stated: "the applicant's conduct bespeaks indifference to the necessity of complying with campaign financing rules rather than acting in good faith."

I would find indifference rather than inadvertence in all the circumstances.” The court held that missing the deadline was ‘inadvertent’ and notwithstanding the importance of the deadline and the need to comply, the penalty was too harsh for the unintentional failure.

Bylaw Upheld: Taxicabs Prohibited From Using Drive-Thru Liquor Outlets

Duffield v. Prince Albert (City), 2015 SKCA 46 (CanLII) <http://canlii.ca/t/ghdpj>

The appellants are hotel owners who off-sale liquor by means of a “drive-thru” service. The City of Prince Albert’s bylaw amended the taxicab bylaw to prohibit taxicab owners and taxicab drivers from driving their taxicabs through off-sale, drive thru liquor outlets in the City. The appellants asked the Court of Queen’s Bench to quash the bylaw for two reasons. First, the procedure for its passage did not comply with the requirements of *The Cities Act*. Second, the subject matter of the bylaw is *ultra vires* the bylaw making powers of the City, because it regulates the sale of alcohol (a provincial concern). The Court of the Queen’s Bench dismissed the appellant’s application, and the appellants appealed.

HELD: Appeal dismissed.

DISCUSSION: With regards to the first ground of appeal before the Saskatchewan Court of Appeal, the appellants argued that the first, second and third reading of the proposed bylaw took place at the same council meeting without the unanimous consent required by s. 77 of *The Cities Act*. The Court concluded that the procedure used by City Council was appropriate. The Court of Appeal agreed with the Chambers judge that the wording of the proposed bylaw were not such that they change its ‘essential character’ and that minor changes are expected between readings and do not make the bylaw a new act with new procedural requirements on every change. The change was to add owners in addition to drivers of cabs. As such, it cannot reasonably be said that the bylaw was completely different by the time it received its second and third reading. The Court concluded that the passage of the

bylaw complied with *The Cities Act*.

On the second ground of appeal, the Court of Appeal did not reach the conclusion that the bylaw is not *ultra vires* as easily as did the Chambers judge; however the Court ultimately did uphold the Chambers judge decision. The Court reviewed the record and the presumption that cities act in good faith. A review of the record indicated that the bylaw as passed was focused on regulating the activities of taxicab drivers and taxicab owners, which is a legitimate exercise of its municipal power. It was far from obvious that council acted in bad faith when enacting the bylaw. Moreover, the record indicated council never intended to pass a bylaw to regulate in pith and substance- the sale of alcohol. Rather, it appears, council’s objective was always- in pith and substance- to regulate the taxicab business so as to mitigate the safety risks to taxicab operators arising from their patron’s use of drive-thru off-sale liquor outlets.

Judge Throws Out Claim Against City for Abuse of Zoning Powers

Prince George (City) v. Geisser, 2015 BCSC 697 (CanLII) <http://canlii.ca/t/ghf0r>

The City of Prince George commenced this proceeding in February 2011. It sought, *inter alia*, orders that Colleen Geisser cease storage of shipping or cargo containers on the Property without enclosing them and removing such containers if they were not enclosed. The City had received a complaint about the containers being moved on the property in the summer of 2010. The City contends that Geisser’s property was not properly zoned for a commercial warehousing and storage function. Further, in 1991 had Geisser signed a restrictive covenant for the property, on behalf of her company Gypsy Holdings, that also excluded warehousing and storage.

Geisser’s position was that the City knowingly permitted her to use the property for warehousing and storage purposes for many years. In 1991, there was a structure used for storing cars, tools, boats put up and in 2008 she moved two 40-foot containers onto the property. Geisser filed a counterclaim in which she made the allegations that the City misappropriated a portion of her property located at 3505 Pierrero Road in Prince George, BC to build or widen a portion of

Landsdowne Road, deliberately used the zoning bylaws process to interfere with her ability to earn an income and dealt with her in a malicious manner including making threats, abusing its powers, and invading her privacy interests with the intent to cause her harm. The City’s position is that Geisser’s claims are frivolous and vexatious.

HELD: Counterclaim dismissed.

DISCUSSION: The Court began by relying on the principals outlined in *Bradshaw v. Stenner*, 2010 BCSC 1398 assessing the credibility of a witness. When applying these principals the Court concluded that on the key issues where there is a dispute between the parties, Geisser’s evidence is not credible; mainly because Geisser’s evidence is motivated by her strong belief that she was wronged by the City for many years. Regarding Geisser’s first claim relating to the misappropriation of her property for the purpose of road construction, the claim was dismissed. The belief that a misappropriation occurred was based on erroneous conclusions Geisser reached with respect to the methodology utilized by registered land surveyors. The second claim related to the City allegedly having improperly used the zoning process to prevent Geisser from using her property for commercial storage purposes. This claim was passed on a misunderstanding of the zoning process. The third claim related to malicious acts of the City’s employees designed to embarrass Geisser. The Court concluded that again, there was no credible evidence.

City Can Terminate Private Practice Lawyer Working As Municipal Prosecutor

Donovan c. Montreal (City of), 2015 QCCS 2277 (CanLII) <http://canlii.ca/t/gj5k9>

Beginning in 1977 Mtre. John Donovan a private practice lawyer, acted as a prosecutor for the Municipal Court of the City of Westmount. In 2000 Westmount merged with the City of Montreal. Following the merger, Donovan worked as a part-time Municipal Court prosecutor for Montreal. Montreal then had to decide whether or

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2015 Nominating Committee Board of Directors Vacancies!

Pursuant to the IMLA By-Laws (amended October 2, 2013) IMLA is announcing the 2015 Nominating Committee. The Committee encourages people interested in being nominated for Vacant Positions on the IMLA Board of Directors and for IMLA Regional Vice Presidents to make their interest known to the Committee. In addition to filling vacancies, the Committee is charged with nominating the Board's officers: including, Treasurer and President-elect.

The Nominating Committee is as follows and will be meeting during the Las Vegas Annual Conference at the Rio on Sunday, October 4th at 9:15AM, Meeting Room TBA. Please contact the committee in advance and plan to attend the meeting if you are interested in submitting your name or the name of another member for nomination:

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There are several current IMLA Board members whose terms will be expiring in 2015; at least two of these are not eligible for reelection due to term limits. There may be additional vacancies. The Nominating Committee is charged with trying to find candidates who will work to increase the value of IMLA to its members, strengthen the organization and ensure the diversity of the Board geographically and through gender and ethnicity.

IMLA Regional Vice Presidents are also selected by the Nominating Committee and it has been our practice in the past to nominate the current Regional Vice Presidents unless there is a vacancy. The current copy of the amended By-Laws can be found on IMLA's web site at www.imla.org and describes the qualifications for service on the Board or other office.

The Board of Directors hopes that all interested members will apply.

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Second Amendment, Second Time Around

By Erich R. Eiselt, IMLA Assistant General Counsel and Editor

The national debate over the contours of gun regulation continues to reverberate in courtrooms across America. While the Supreme Court determined, in *Heller* and *McDonald*, that there is an unquestionable constitutional right to possess firearms for self-defense within one's own residence, it did not analyze every nuance of that right and left open many other Second Amendment questions.

Gun Possession in the Home: For some, *Heller* and *McDonald* laid to rest any argument that a state or municipality can limit the possession of handguns, by competent adults, for personal self-defense within the home.

But not so fast. The issue is far from settled, judging by the dimensions of a California case just denied certiorari by the Supreme Court. In *Jackson v. City and County of San Francisco*, No. 12-17803 (9th Cir. Mar 25, 2014), the Ninth Circuit upheld two of San Francisco's firearm and ammunition regulations, which "limit but do not destroy Second Amendment rights."

The first regulation relates to handgun possession within a residence. San Francisco Police Code section 4512 provides that "[n]o person shall keep a handgun within a residence owned or controlled by that person unless" (1) "the handgun is stored in a locked container or disabled with a trigger lock that has been approved by the California Department of Justice," or (2) "[t]he handgun is carried on the person of an individual over the age of 18." S.F. Police Code art. 45, § 4512(a), (c)(1). Violations of section 4512 are punishable by a fine of up to \$1,000 and up to six months in prison. *Id.* § 4512(e).

The second challenged provision prohibits the sale of ammunition, including the so-called "hollow-point" bullet, that (1) has "no sporting purpose," (2) is "designed to expand upon impact and utilize the jacket, shot or materials embedded within the jacket or shot to project

or disperse barbs or other objects that are intended to increase the damage to a human body or other target," or (3) is "designed to fragment upon impact." S.F. Cal., Police Code art. 9, § 613.10(g).

Plaintiffs are citizens of San Francisco "who presently intend to keep their handguns within the home in a manner ready for immediate use to protect themselves and their families." They and other gun-rights organizations brought suit, challenging the regulations on Second Amendment grounds and moving for a preliminary injunction. The district court denied that motion.

The Ninth Circuit affirmed. It acknowledged that *Heller* confers "an individual right to keep and bear arms" and that the District of Columbia's requirement that "firearms in the home be rendered and kept inoperable at all times" made it "impossible for citizens to use [firearms] for the core lawful purpose of self-defense." But it cited *Heller's* often quoted caveat that the Second Amendment does not preclude certain "longstanding prohibitions" and "presumptively lawful regulatory measures," such as "prohibitions on carrying concealed weapons," "prohibitions on the possession of firearms by felons and the mentally ill," "laws forbidding the carrying of firearms in sensitive places such as schools and government buildings," "laws imposing conditions and qualifications on the commercial sale of arms," and prohibitions on "the carrying of 'dangerous and unusual weapons.'"

The *Jackson* court also referenced *Heller's* teaching that mere rational basis review was insufficient for Second Amendment analysis: "[i]f all that was required to overcome the right to keep and bear arms was a rational basis, the Second Amendment would be redundant . . . and would have no effect." Here, core Second Amendment rights were undeniably at stake, requiring an analysis

of the degree to which the San Francisco Code provisions burdened those rights:

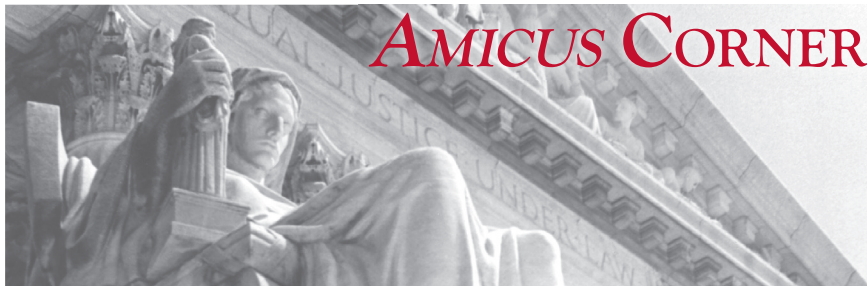
As Jackson argues, there are times when carrying a weapon on the person is extremely impractical, such as when sleeping or bathing. Therefore, as a practical matter, section 4512 sometimes requires that handguns be kept in locked storage or disabled with a trigger lock. Having to retrieve handguns from locked containers or removing trigger locks makes it more difficult "for citizens to use them for the core lawful purpose of self-defense" in the home. *Heller*, 554 U.S. at 630. Section 4512 therefore burdens the core of the Second Amendment right.

This is not the end of our inquiry, however. . . . Unlike the challenged regulation in *Heller*, *id.* at 629, section 4512 does not substantially prevent law-abiding citizens from using firearms to defend themselves in the home. Rather, section 4512 regulates how San Franciscans must store their handguns when not carrying them on their persons. This indirectly burdens the ability to use a handgun, because it requires retrieving a weapon from a locked safe or removing a trigger lock. But because it burdens only the "manner in which persons may exercise their Second Amendment rights," Chovan 735 F.3d at 1138, the regulation more closely resembles a content-neutral speech restriction that regulates only the time, place, or manner of speech. The record indicates that a modern gun safe may be opened quickly. Thus, even when a handgun is secured, it may be readily accessed in case of an emergency. Further, section 4512 leaves open alternative channels for self-defense in the home, because San Franciscans are not required to secure their handguns while carrying them on their person.

Applying intermediate scrutiny, the *Jackson* court found that San Francisco had shown that section 4512's requirement that persons store handguns in a locked storage container or with a trigger lock when not carried on the person "is substantially related to the important government interest of reducing firearm-related deaths and injuries."

The hollow bullet ban also survived *Jackson's* motion for injunction. The Ninth Circuit found that the limitation was "substantially related to San Francisco's important interest of reducing the lethality of ammunition." Even if a less-restrictive alternative was available (such as prohibiting hollow-point bullets in public only), "intermediate scrutiny does not require the least restrictive

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AMICUS CORNER

IMLA In Full Stride

By Amanda Kellar, IMLA Associate General Counsel and Director of Legal Advocacy

IMLA filed an amicus brief in *Franchise Tax Board of California v. Hyatt*, a petition-stage Supreme Court case. In *Hyatt*, a former resident of California moved to Nevada after he had earned hundreds of millions of dollars in licensing fees during the time that he lived in California. In 1993, the Franchise Tax Board of California (FTB) audited his California tax returns and concluded that he owed the state millions in unpaid income taxes, interest, and penalties. The former California resident responded by filing suit against FTB in Nevada state court, alleging that FTB had committed fraud, intentional infliction of emotional distress and other torts in the course of the audit. The Nevada Supreme Court upheld a jury verdict against FTB.

This case had previously been before the US Supreme Court in 2003, see *Franchise Tax Bd. of Cal. v. Hyatt*, 538 U.S. 488, 499 (2003) (*Hyatt I*). In *Hyatt I*, the FTB argued that because California law gave it complete immunity for claims arising from tax administration, the Full Faith and Credit Clause required Nevada to respect that immunity. The Supreme Court held that the Nevada courts were not required to apply California law giving FTB complete immunity; instead, they could hold FTB liable to the same extent that a comparable Nevada government entity would be liable, “relying on the contours of Nevada’s own sovereign immunity from suit as a benchmark.” That case recognized that “States’ sovereignty interests are not foreign to the full faith and credit command,” and signaled that

a state may not “exhibit[] a ‘policy of hostility to the public Acts’ of a sister State.” 538 U.S. at 499.

The case was then remanded and after the jury awarded Hyatt hundreds of millions of dollars in damages the decision was again appealed. Relevant to our purposes, this time the Nevada Supreme Court held that the discretionary-function immunity for a governmental entity and its employees was not applicable in this case because the Nevada Court recognizes an exception to that immunity for bad-faith conduct. The Nevada Supreme Court also held that FTB was not entitled, under principles of comity, to the Nevada statutory cap on damages that is available to Nevada governmental entities. The court concluded that allowing FTB to utilize the damages cap would violate Nevada’s public policy because the state’s interest in providing relief to its citizens outweighs the principles of comity.

In support of FTB’s petition for certiorari, IMLA’s brief focuses on the issue of discretionary function immunity and how narrowing the scope of that immunity will impede local governments’ functionality and harm the public interest. IMLA argues that given the nature and scope of municipal activities, local governments are particularly susceptible to intentional tort claims—and by carving out an exception to the immunity for bad-faith conduct the court threatens municipalities’ policymaking abilities for the critical services that municipalities provide. Moreover, the nature of intentional tort claims will necessarily make these lawsuits extremely costly both in terms of distraction from government officials’ duties and from a monetary

standpoint. Further, IMLA argues that the erosion of the immunity in these cases will likely dissuade talented and bright individuals from entering public service.

IMLA also submitted amicus briefs both at the petition-stage and merits-stage in two cases that were recently decided by the Supreme Court: *City and County of San Francisco v. Sheehan* and *Comptroller of the Treasury of Maryland v. Wynne*.

In *City and County of San Francisco v. Sheehan*, two police officers were called by a social worker to take Sheehan into custody for an involuntary mental evaluation after she had threatened a social worker with a knife. When the officers arrived, they opened the door to Sheehan’s residence and she threatened to kill them and brandished a knife. They closed the door to her residence and called for backup. However, they then made the determination to reenter her residence before backup arrived to effectuate the arrest, in order to prevent Sheehan from harming herself or others. When they reentered, Sheehan rushed them with a knife. The officers tried to use pepper spray to stop her and when that didn’t work, they shot her several times. She survived and sued under 42 U.S.C. § 1983 and the ADA.

The Ninth Circuit concluded that the first entry was lawful (under the warrantless search exemption to render emergency assistance or respond to exigent circumstances) as was the officers’ ultimate use of deadly force under the circumstances. However, the Ninth Circuit held that the officer’s second entry into Sheehan’s residence was unlawful under both the Fourth Amendment and ADA. The court held that the second entry was unreasonable under the Fourth Amendment, on the basis that it was unreasonable to make an otherwise lawful entry when the officers could have desisted from their efforts to arrest Sheehan in light of her resistance and mental illness, and used different tactics that might have resulted in a different outcome. Regarding Sheehan’s claim under the ADA, the Ninth Circuit held that the “reasonable accommodation” requirement of Title II of the ADA applies to officers’ conduct in the course of an arrest – including an arrest of a violent individual like Sheehan. The court further held that the

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Questions That Must Be Answered

By: Kelly Butler, City Attorney, Madison, Alabama

Who Does This?

Somewhere between law school graduation and the date of this writing, I became a municipal lawyer. I don't think I really meant to do it, but here I am just the same. I'd lay money that most of you didn't hit the doors as a 1L aiming to set the legal world on fire by sitting behind your computer writing and writing and writing until carpal tunnel surgery is the only way to stop small children from shrieking at the sight of your claw-like hands. And I'm pretty sure you didn't take Conflict of Laws so that you could settle political squabbles which are really better suited for the playground or a Jell-o pit. But somehow, somehow, at some point, municipal law found me just like it found you...and we just couldn't let it go. Maybe it provided a measure of stability to an otherwise unstable bottom line in your solo practice. Or maybe a box of files greeted you at the door on your first day as a BigLaw associate, said box handed over by a giggling partner who you swear skipped a little as he made his hasty retreat from your cozy office. Or maybe you're like me: you had an opportunity fall in your lap at the right point in your career and you managed, amazingly, to not screw it up. (Truth hurts, eh?)

You probably realized pretty quickly what every other municipal lawyer already knew: that we are the red-headed stepchildren of the legal world. (No offense to the ginger bonus children reading this.) Our little part of the profession accounts for a tiny-point-tiny percent of the country's lawyers and, for the most part, we get treated like even less. If you really look at us, though, we are an interesting microcosm of the larger Bar, sort of like the adult males left to fend for themselves on the Titanic. We come from all walks of life, a wide range of socioeconomic backgrounds, and varied cultures, but none of that matters when we go looking for help. Generally, we are

left to fend for ourselves. I think that's why we have such unique personalities in the practice of municipal law – we have to be strong (or weird) enough to be okay with watching everybody else get the lifeboats while we're clinging to the random timber that floats by in the dark. (Shout out to the state municipal leagues and IMLA for being the biggest and strongest timbers we could ever ask for, by the way.)

What Do You Do? Seriously....

When I clerked for my judge, and later when I was in private practice, I didn't need to say much to explain my job to High School Cheerleader I Haven't Seen in Years: "I work for a judge" seemed to sufficiently explain my work and impress those who wondered what I'd been up to since I ran screaming from graduation. Later, during the years of private practice, I found I had to expound a little to help Captain Perky Skirt understand my career choice: "I own a small boutique firm (*I have an office that looks really cool but I haven't paid myself in four months*) where I specialize in a wide range of business-related transactions (*I write boring documents that would make your brain melt and I also clean the toilets*) and represent a select list of high-profile defendants (*most of my clients are career losers selected for me by the presiding judge from the tall stack of indigent defense requests*) and private clients who pay top dollar to have me on their side (*I once got paid with a deep-fried turkey...and it was delicious*)."

Since February 6, 2001, though, the answer has been way more difficult to give. I get the "what do you do" question quite often from non-lawyer friends and family and, more often than I find comfortable, from fellow municipal employees and elected officials. Fourteen years as a municipal lawyer and I still don't have a good answer. And by "good answer," I mean an answer that makes me sound really cool, because, let's face it, the truth is pretty boring. I

mean, come on ... we write ordinances and resolutions and legislation and contracts and leases and deeds and bid documents and all kinds of stuff that nobody – and I do mean NOBODY – else gives a crap about until they get a question from a reporter or a subpoena from the sheriff. And the rest of what we do from day to day – especially those of us who are in-house (read: easily accessible and not on a clock) – is akin to being an ER doctor. One of the ways I describe my department is that it's like a triage ward – we treat 'em and street 'em and get our people back to work as quickly as possible, hopefully healed and now armed with better information than they had when they got to us.

Usually, though, the most accurate descriptions of what we do are in terms nobody else understands ("I spent all day drafting a revamp of our SOPs for street cuts and a revision of our SOGs for processing trench failure complaints") and in terms nobody wants to hear ("Let me break down WHY we shouldn't enter into this 91-page agreement for a multi-million dollar deal without reading it first"). However, because we are all drifting in this icy water together, I offer for your perusal and use 15 painfully accurate, bite-size, somewhat dignified answers about our beloved legal niche, each suitable for dinner parties and family gatherings when the inevitable, "So what DO you do?" comes up:

I read. A lot.

I write. A lot more.

I talk on the phone, but only when

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Kelly Butler A 1996 graduate of the University of Alabama School of Law, Kelly is a soon-to-be-middle-aged municipal attorney who spends most of her time wishing death to the city phone system and e-mail server. During lucid moments, she is the City Attorney for the City of Madison, Alabama, and manages a department of a whopping five employees (counting her) who are the hardest-working team in the business (most of the time counting her). When not in the office or with her face in her phone checking e-mail, she enjoys spending 37.8 minutes a week with her firefighter-husband and trying to buy the love of her eight-year-old daughter due to a severe case of Working Mommy Guilt. She is also the current Vice President of the Alabama Association of Municipal Attorneys and loves speaking at AAMA seminars and conferences when they have run out of options and nobody else is available.

means of furthering a given end.” (citing *Ward v. Rock Against Racism*, 491 U.S. 781, 798 (1989)).

In sum, these limits on gun possession within the home are not prohibited, at least for the Ninth Circuit:

We recognize the significance of the Second Amendment right to keep and bear arms. “[I]t is clear that the Framers and ratifiers of the Fourteenth Amendment counted the right to keep and bear arms among those fundamental rights necessary to our system of ordered liberty.” McDonald, 130 S.Ct. at 3042. But we also recognize that the Second Amendment right, like the First Amendment right to freedom of speech, may be subjected to governmental restrictions which survive the appropriate level of scrutiny.

Jackson and gun-rights proponents filed for certiorari before the Supreme Court. They did not succeed.

On Monday, June 8, the Court denied cert in *Jackson*, over the dissent of Justices Thomas and Scalia. Justice Thomas voiced his concern over the direction being taken by the Ninth Circuit:

Despite the clarity with which we described the Second Amendment’s core protection for the right of self-defense, lower courts, including the ones here, have failed to protect it. Because Second Amendment rights are no less protected by our Constitution than other rights enumerated in that document, I would have granted this petition.

The bottom line is that considerable work remains to be done in clarifying the metes and bounds of gun possession within the home.

Public Carry: If there is continued ambiguity about guns in the home, the picture is even less clear on the issue of public carry, where an obvious schism is developing among the federal judiciary.

The Nation’s Capital: Washington DC is the most recent jurisdiction to be rebuffed in its efforts to control public gun carry. Last month, the US District Court for the District of Columbia granted a preliminary injunction to three plaintiffs—supported by the Bellevue, Washington-based Second Amendment Foundation—who challenged the District’s “good reason” requirement for the issuance of a concealed carry gun permit. In *Wrenn v. District of Columbia*, no. 1:15-cv-162 (D. D.C. May 18, 2015) US District Court Judge Fred-

erick Scullin found that the plaintiffs had shown a sufficient likelihood of winning on the merits such that the law should be held in abeyance pending judicial resolution.

Applying intermediate scrutiny, Scullin determined that the District’s law inhibited the public carry of handguns, undermining the Second Amendment:

The District of Columbia’s arbitrary “good reason”/“proper reason” requirement, however, goes far beyond establishing such reasonable restrictions. Rather, for all intents and purposes, this requirement makes it impossible for the overwhelming majority of law-abiding citizens to obtain licenses to carry handguns in public for self-defense, thereby depriving them of their Second Amendment right to bear arms. (citation omitted).

Washington D.C. has hardly been timid about attempting to limit gun possession and usage, even after its indoor use restrictions were resoundingly stricken in *Heller* in 2008. Last year, *Palmer v. District of Columbia*, no. 1:09-cv-14082 (July 26, 2014), invalidated the District’s predecessor regulations restricting concealed carry. At issue in *Palmer* was D.C. Code § 7-2502.01(a) which provided that “no persons or organization in the District shall possess or control any firearm, unless the persons or organization holds a valid registration certificate for the firearm” and D.C. Code § 7-2502.02(a) (4) which stated that individuals who are not retired police officers may only register a handgun “for use in self-defense within that person’s home.”

Under these predecessor laws, applicants were required to “give a brief statement of your intended use of the firearm and where the firearm will be kept.” Empirical evidence was that virtually no public carry permits were issued.

The *Palmer* plaintiffs challenged the DC Code provisions on Second Amendment grounds—as well as under Equal Protection and Right to Interstate Travel principles because only District residents could apply for the public carry permits.

The same Judge Scullin had presided over *Palmer*. He applied *Heller’s* dictate, extended to the states via *McDonald*, that the Second Amendment right to keep and bear arms is held by the individual and is not limited to a communal, militia-based

context. And he advanced the logic that “bearing” a firearm cannot be confined to self-defense within a residence. The predecessor D.C. Code provisions were deemed unconstitutional and their enforcement was permanently enjoined.

Within weeks after *Palmer*, the DC Council promulgated new regulatory language. While acknowledging the right of the public to carry firearms in public, the new legal framework added a “good reason” requirement—the applicant had to articulate that he or she had a “good reason to fear injury to his or her person or property or ha[s] any other proper reason for carrying a pistol.” D.C. Code §22-4506(a). The Code provided various elements which might support a “good reason” applicant, including “evidence of specific threats or previous attacks,” employment requiring the carrying of large amounts of cash or valuables, or the need to protect vulnerable family members with mental or physical disabilities.

The “good reason” hurdle proved to be mountainous. Once again, the empirical evidence was damning—the new framework did not result in increased issuance of DC public carry permits by Chief Cathy Lanier’s police department. Some accounts cited the number at fewer than ten permits issued for this city of over 600,000 residents. Last month, *Wrenn* enjoined the DC “good reason” law.

The Ninth Circuit: Judge Scullin’s legal analysis in *Wrenn* relied in large measure on precedent from the Ninth Circuit. In 2014, that court had considered San Diego’s “good cause” scheme in *Peruta v. City and County of San Diego*, no. 10-56961 (Feb. 13, 2014). *Peruta* arose under the rubric of California’s broad prohibitions against concealed carry of a firearm and public carry of a loaded firearm generally (Cal. Penal Code § 25400 et seq.). The California scheme allowed for licensing of concealed carry upon an applicant’s showing of “good moral character,” completion of a specified training course, and establishing “good cause.” Id. §§ 26150, 26155. The state delegated to each California municipality the power to issue a written policy setting forth the procedures for obtaining a concealed-carry license. Id. § 26160.

San Diego County’s policy interpreted the “good cause” requirement to mean “[A] set of circumstances that distinguish the applicant from the mainstream and causes him or her to be placed in harm’s way.” Good cause

was “evaluated on an individual basis” and might arise in “situations related to personal protection as well as those related to individual businesses or occupations.” But concern for “one’s personal safety alone is not considered good cause.”

The *Peruta* court, in a 2-1 split, found the San Diego “good cause” policy to be so restrictive as to eviscerate the Second Amendment’s grant of individual rights to carry handguns in public for self-defense. In so doing, the Ninth Circuit spotlighted the growing judicial fissure on public-carry rights:

By evading an in-depth analysis of history and tradition, the Second, Third and Fourth Circuits missed a crucial piece of the Second Amendment analysis. They failed to comprehend that carrying weapons in public for the lawful purpose of self defense is a central component of the right to bear arms.... And further, they failed to comprehend that regulations on the right, although permissible to an extent, could not go so far as to enjoin completely a responsible, law-abiding citizen’s right to carry in public for self-defense. Such regulations affecting a destruction of the right to bear arms, just like the regulations that affect a destruction of the right to bear arms, cannot be sustained under any standard of scrutiny. (citation omitted).

Indicative of the dynamic and fiercely-contested tenor of the Second Amendment debate, San Diego’s “good cause” battle may not be over, and Judge Scullin’s well-intentioned reliance on *Peruta* may prove to be premature. The Ninth Circuit agreed to rehear *Peruta* on June 16, 2015, en banc. And at least one well-placed NRA observer predicted that, based on the likely staffing of the en banc proceeding, a reversal of *Peruta* may be in the offing.

The Seventh Circuit: The Seventh Circuit has spoken authoritatively on the public carry issue. In *Moore v. Madigan*, 702 F.3d 933 (7th Cir. 2012), Judge Posner struck down Illinois’ blanket prohibition on carrying ready-to-use firearms outside the home:

A blanket prohibition on carrying gun in public prevents a person from defending himself anywhere except inside his home; and so substantial a curtailment of the right of armed self-defense requires a greater showing of justification than merely that the public might benefit on balance from such a curtailment, though there is no proof it would. In contrast, when a state bans guns merely in particular places, such as public schools, a person can preserve an

undiminished right of self-defense by not entering those places; since that’s a lesser burden, the state doesn’t need to prove so strong a need. Illinois has lots of options for protecting its people from being shot without having to eliminate all possibility of armed self-defense in public.

In Seventh Circuit, however, the right to public carry is not unlimited. That court recently upheld a ban on public carry of certain types of firepower—assault weapons and large-capacity magazines. In *Friedman v. City of Highland Park*, No. 14-3091 (7th Cir. Apr. 27, 2015), the Court of Appeals catalogued the types of firearms which would have only been available for use by a militia—and held that accordingly, military-grade assault weapons could not be possessed by the general public today. It also found a sufficient legal basis to sustain intermediate scrutiny:

Unlike the District of Columbia’s ban on handguns, Highland Park’s ordinance leaves residents with many self-defense options. True enough, assault weapons can be beneficial for self-defense because they are lighter than many rifles and less dangerous per shot than large-caliber pistols or revolvers. Household-ers too frightened or infirm to aim carefully may be able to wield them more effectively than the pistols James Bond preferred. But assault weapons with large-capacity magazines can fire more shots, faster, and thus can be more dangerous in aggregate. Why else are they the weapons of choice in mass shootings? A ban on assault weapons and large-capacity magazines might not prevent shootings in Highland Park (where they are already rare), but it may reduce the carnage if a mass shooting occurs. That laws similar to Highland Park’s reduce the share of gun crimes involving assault weapons is established by data.

The Contrary View—“Terra Incognita”: While the Seventh Circuit found adequate guidance in *Heller* and *McDonald* to define a right of self-defense in public, the Fourth Circuit discerned no such talisman. Judge Wilkinson expressed his concerns in *United States v. Masciandaro*, 638 F.3d 458, 475 (4th Cir. 2011):

[T]here may or may not be a

Second Amendment right in some places beyond the home, but we have no idea what those places are, what the criteria for selecting them should be, what sliding scales of scrutiny might apply to them, or any one of a number of other questions. It is not clear in what places public authorities may ban firearms altogether without shouldering the burdens of litigation. The notion that ‘self-defense has to take place wherever [a] person happens to be,’ appears to us to portend all sorts of litigation over schools, airports, parks, public thoroughfares, and various additional government facilities. The whole matter strikes us as a vast terra incognita that courts should enter only upon necessity and only then by small degree.

The Second Circuit: Foremost among the jurisdictions upholding limits on public carry is the Second Circuit and its decision in *Kachalsky v. County of Westchester*, 701 F.3d 81 (2d Cir. 2012). There, the court considered a New York regulatory scheme similar to those in Maryland, Massachusetts, Hawaii and New Jersey—which would likely face stiff challenge in other circuits. New York law generally prohibits possession of a firearm absent a license. (N.Y. Penal Law § 265.01 et seq.). Licenses are limited to those over 21 years of age, of good moral character, without a history of crime or mental illness, and “concerning whom no good cause exists for the denial of the license.” (N.Y. Penal Law § 400.00(1)(a)-(d), (g)). While certain occupations (bank messengers, jail employees, judges), pursuits (hunting and target practice) and certain locations (residences, places of business) will elicit a license, permission for concealed carry will only be granted “when proper cause exists for the issuance thereof.” (N.Y. Penal Law § 400.00(2)(f)). “Proper cause” is not defined in the statute, but New York State courts have opined that applicants must demonstrate “a special need for self-protection distinguishable from that of the general community.” “Good moral character plus a simple desire to carry a weapon” is insufficient, nor is living or being employed in a “high crime area.”

The *Kachalsky* court referenced Judge Wilkerson’s “terra incognita” description of the Supreme Court’s input on a right

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not it would continue to use Donovan or rely on and use its internal legal employees as city prosecutors. In 2010 Donovan was advised in writing that Montreal was going to use its full time lawyers to act as Municipal prosecutors, and his services would no longer be needed. Donovan alleged that Montreal had no right to terminate his services since it had to respect the resolution adopted on June 2, 1992 by Westmount, confirming that the latter retained his services as a Westmount Municipal Court prosecutor. Donovan also argued that if he was to be terminated, Montreal had to give him appropriate notice before terminating his service.

HELD: Motion Dismissed.

DISCUSSION: The Court held that Montreal was able to terminate the services of Donovan. At the time Montreal terminated Donovan's services, the Westmount resolution was obsolete. The Court relied on the *Act Respecting the Exercise of Certain Municipal Powers In Certain Urban Agglomerations*, which delegated to Montreal the competence concerning municipal court affairs. Furthermore, the agreement relating to the delegation of activities of penal proceedings before Montreal Municipal Court signed by Westmount in 2006 permitted Westmount to use the services of prosecutors other than those used by Montreal-but Westmount had never subsequently retained the services of Donovan. It was Montreal that continued to retain Donovan, and therefore Montreal was able to put an end to Donovan's services.

With regards to notice, the Court indicated that Donovan was terminated because Montreal decided to use its own employees to act as Municipal Court prosecutors. Therefore it is clear that Donovan was not Montreal's employee. The Court agreed with the position put forward by Montreal that Donovan was bound by a service contract and was subject, as any lawyer, to the *Code of Ethics of Advocates*. The Code of Ethics provides that a lawyer may not, at any time, limit the right of the client to consult another lawyer. Montreal argued that requiring a client to give his lawyer prior notice of termination of service would be in violation of the client's right to choose his lawyer. **ML**

to self-defense outside the home. The Second Circuit grudgingly "assumed" that such a right may exist—but proceeded to uphold a restrictive "proper cause" permitting scheme by applying intermediate scrutiny in the form of an "interest-balancing test:"

Because our tradition so clearly indicates a substantial role for state regulation of the carrying of firearms in public, we conclude that intermediate scrutiny is appropriate in this case. The proper cause requirement passes constitutional muster if it is substantially related to the achievement of an important governmental interest."

Freed of the requirement to find narrow tailoring, the Second Circuit determined that maintaining public safety was an important governmental interest and the New York "proper cause" process served that interest—in stark contrast to the recent DC Circuit analysis in *Wrenn*.

High Court Reprise? *Heller* and *McDonald* resolved narrow questions about gun possession—and left many other questions unanswered. Subsequent interpretations of those decisions and their implications for limits on firearms, whether in the home or in public, have diverged widely, as evidenced in *Wrenn*, *Peruta*, *Moore*, *Kachalsky*, *Jackson* and other Circuit Court holdings. While the general momentum is shifting unmistakably towards less restriction on the right "to keep and bear arms," the real meaning of the Second Amendment will clearly require continuing explication by the Supreme Court. **ML**

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issue of the reasonableness of the accommodations proposed after this incident by Sheehan's litigation expert (i.e., that the officers should have allowed Sheehan to remain in her "comfort zone" until they were able to calm her down), was one for the jury.

The Supreme Court granted certiorari on two issues: (1) whether the ADA requires police officers to provide accommodations to an armed, violent, and mentally ill suspect in the course of an arrest; and (2) whether it was clearly established for the purposes of the Fourth Amendment that even where an exception to the warrant requirement applied, an entry into a residence could be unreasonable due to the anticipated resistance of an armed and violent suspect within the residence.

IMLA's brief argued, among other things,

that individual police officers should not be required to perform an analysis regarding what accommodations are necessary under the ADA, but rather, police should be afforded broad discretion in these circumstances.

In a 6-2 opinion, the Court dismissed the first issue regarding the ADA as improvidently granted, declining to rule on an important issue for local governments.

Regarding the Fourth Amendment issue, the Court noted that the "real question" was "whether, despite these dangerous circumstances, the officers violated the Fourth Amendment when they decided to reopen Sheehan's door rather than attempting to accommodate her disability." Despite having reframed the question presented on the Fourth Amendment issue, the Court declined to rule on this constitutional question. The Court instead rested its holding on the fact that the law was not clearly established at the time of the events, thereby entitling the officers to qualified immunity. In so holding, the Court reversed the decision of the Ninth Circuit, admonishing that it has "repeatedly told courts – and the Ninth Circuit in particular – not to define clearly established at a high level of generality... Qualified immunity is no immunity at all if 'clearly established' law can simply be defined as the right to be free from unreasonable searches and seizures." The Court explained that under the circumstances, a reasonable officer could have concluded that the second entry into Sheehan's home was justified both under the continuous search rationale and the exigent circumstances rationale.

The second case decided by the Court on May 18, 2015 in which IMLA had participated as an amicus was *Comptroller of the Treasury of Maryland v. Wynne*. In *Wynne*, local governments were dealt a loss by the Court when it held that Maryland's tax scheme was unconstitutional under the dormant Commerce Clause.

The Maryland tax scheme at issue had two components: a state tax and a county tax. The county tax is based on where the individual is domiciled and maintains a principal residence. Maryland provides residents who pay income tax to another jurisdiction for income earned in that other jurisdiction a credit against Maryland state taxes, but Maryland does not provide a credit against its county taxes. Nonresidents

who earn income from sources within Maryland must pay the state income tax as well as a “special” nonresident tax in lieu of the county tax. The result of Maryland’s tax structure is that some Maryland residents who earn income outside the state may be subject to so-called double taxation because a credit is only offered on the state tax and not on the county tax.

In a 5-4 opinion, writing for a sharply divided Court, Justice Alito concluded that Maryland’s personal income tax scheme violates the dormant Commerce Clause. The majority concluded that Maryland’s tax structure creates a risk of double taxation, is inherently discriminatory and that it fails the “internal consistency” test. The majority noted that the state’s tax scheme operates as a tariff, which the Court concluded is “fatal because tariffs are ‘the paradigmatic example of law discriminating against interstate commerce.’” The Court explained that Maryland’s tax scheme “fails the internal consistency test because if every State adopted Maryland’s tax structure, interstate commerce would be taxed at a higher rate than intrastate commerce.”

The Court brushed aside arguments made by the Solicitor General (which were also advanced by IMLA and other state and local government groups) that residents of a county reap the benefits of local government services, like schools, roads, and police and fire services, and a state should therefore have the ability to tax the income of residents for those services, regardless of where that income was earned.

In the principal dissent, Justice Ginsburg argued that the dormant Commerce Clause does not invalidate a tax scheme where the discriminatory effect results from the operation of two otherwise lawful tax statutes. She also argued that it is well-established that states have the authority to tax all of their residents’ income, wherever earned, and that it is a policy decision that should be left to the states and Congress to decide whether they want to offer tax credits for income that is taxed by other states. She concluded by noting that the Court is ill equipped to make these types of policy decisions.

The dissent brought together an unlikely confederation. Joining Justice Ginsburg were Justices Kagan and Scalia. Justice Scalia also wrote his own dissent arguing that the dormant Commerce Clause does not exist, because the Constitution says nothing about prohibiting state laws that burden interstate commerce. Justice Thomas joined the Scalia dissent and issued his own, arguing that even if there is a “dormant” Commerce Clause, it could not have been intended to apply in this manner.

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ciological Review, 2913 Vol. 78: *Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women 2* (2013), available at http://scholar.harvard.edu/files/mdesmond/files/unpolicing.asr2013.online.supplement_0.pdf (appendix comparing nuisance property ordinances across municipalities).

6. Andrew Klein, U.S. Dept. of Justice, Nat'l Inst. of Justice, *Practical Implications of Current Domestic Violence Research: Judges 1* (2008), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/222321.pdf>.

7. See Desmond & Valdez, *Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women*, Am. Sociological Rev. vol. 78, no. 1, 131 (2013), available at <http://scholar.harvard.edu/files/mdesmond/files/desmond.valdez.unpolicing.asr0.pdf> (finding that domestic violence was the third most commonly cited offense under a nuisance ordinance in Milwaukee, Wisconsin); Soc. Science Research Council, *Technical Note: Nuisance Ordinance Enforcement in Binghamton, New York 2* (2015) (on file with author) (finding that incidents of domestic violence received the largest share of points in enforcement actions under a nuisance ordinance in Binghamton, New York).

8. Desmond & Valdez, *supra* note 7, at 132 (finding that eviction was the most common abatement strategy in response to citation under the Milwaukee nuisance ordinance).

9. *Id.* at 125-130.

10. *Id.* at 138.

11. Second Amended Complaint, *Grape v. Town/Village of East Rochester*, No. 07-CV-6075-CJS (F) (W.D.N.Y. July 6, 2007) [hereinafter *Grape Complaint*], available at <http://www.nhlp.org/files/Grape%20WDNY%20nuisance%202d%20compl.pdf>.

12. *Id.*

13. See Desmond & Valdez, *supra* note 7, at 117; Soc. Science Research Council, *supra* note 7.

14. Carmela Decandia et al., Nat'l Ctr. on Family Homelessness, *Closing the Gap: Integrating Services For Survivors of Domestic Violence Experiencing Homelessness 2* (2013), available at <http://www.family-homelessness.org/media/371.pdf>; Ctrs.

for Disease Control & Prevention, *Costs of Intimate Partner Violence Against Women in the United States 18-19* (2003), available at <http://www.cdc.gov/violenceprevention/pdf/IPVBooka.pdf>; National Alliance on

Mental Illness, *The High Costs of Cutting Mental Health: Homelessness* (2011), available at http://www2.nami.org/Template.cfm?Section=About_the_Issue&Template=/ContentManagement/ContentDisplay.cfm&ContentID=114535

15. Memorandum from Sara K. Pratt, Deputy Sec'y for Enforcement and Programs, Office of Fair Hous. & Equal Opportunity, U.S. Dep't of Hous. & Urban Dev. to FHEO Office Directors and FHEO Regional Directors, *Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act and the Violence Against Women Act 3-4* (Feb. 9, 2011) [hereinafter *FHEO Guidance on Housing Discrimination Against Domestic Violence*], available at <http://www.hud.gov/offices/fheo/library/11-domestic-violence-memo-with-attachment.pdf>.

16. *Id.*

17. *Id.* at 5. Currently, the U.S. Supreme Court is considering the question of whether disparate-impact claims are cognizable under the Fair Housing Act. *Texas Dep't of Hous. Cmty. Affairs v. Inclusive Communities Project*, 135 S. Ct. 939 (2015), motion granted, No. 13-1371 (S. Ct. Jan. 9, 2015).

18. See Complaint ¶ 39, *Briggs v. Borough of Norristown*, No. 2:13-cv-02191-ER (E.D. Pa. Apr. 29, 2013), ECF 9 [hereinafter *Briggs Complaint*], available at https://www.aclu.org/files/assets/2013.04.29-verified_first_amended_complaint.pdf.

19. FHEO Guidance on Housing Discrimination Against Domestic Violence, *supra* note 15, at 4; see, e.g., Soc. Science Research Council, *supra* note 7, at 2.

20. FHEO Guidance on Housing Discrimination Against Domestic Violence, *supra* note 15, at 5; see, e.g., *Briggs Complaint*, *supra* note 18.

21. *Norristown HUD Complaint*, *supra* note 3; *Norristown Conciliation Agreement*, *supra* note 3; Conciliation Agreement between Assistant Secretary of the Office of Fair Housing & Equal Opportunity and City of Berlin, New Hampshire, No. 01-15-0017-8 (Dep't of Hous. & Urban Dev., Jan. 29, 2015) [hereinafter

Berlin Conciliation Agreement], available at <http://portal.hud.gov/hudportal/documents/huddoc?id=TownBerlin.pdf>.

22. 42 U.S.C. §§ 2918a(c)(3)(B), 3226(c)(3)(B)(xxi), 3608(e), 5304(b)(2), 5306(d)(7)(B), 12705(b)(15), 12872(c)(2)(E), 12873(c)(2)(E), 12892(c)(2)(E), 12893(c)(2)(E), 1437aaa-2(d)(2)(M), 1437c-1(d)(16); 24 C.F.R. §§ 91.225(a)(1), 91.235(c)(4), 91.325(a)(1), 91.425(a)(1)(i), 91.520(a), 570.487(b), 570.421(a)(1)(iv), 570.601(a)(2), 570.704(b)(8)(v), 570.904, 903.1, 903.2(d), 903.7(o), 905.308(b)(1), 960.103(b), 982.53(c).

23. U.S. Dep't of Housing & Urban Dev., Office of Fair Hous. & Equal Opportunity, *Fair Housing Planning Guide 5-4* (1996), available at <http://www.hud.gov/offices/fheo/images/fhpg.pdf>.

24. *Id.* at 4-3, 4-4.

25. Shannan Catalano, U.S. Dep't of Justice, *Special Report Intimate Partner Violence, 1993-2010 3* (2012).

26. Affirmatively Furthering Fair Housing Assessment Tool: Solicitation of Comment—60-Day Notice, 79 Fed. Reg. 57,949, 57,950 (Sep. 26, 2014).

27. See, e.g., *Otero v. N.Y. City Hous. Auth.*, 484 F.2d 1122 (2d Cir. 1973); *Shannon v. HUD*, 436 F.2d 809 (3d Cir. 1970).

28. Affirmatively Furthering Fair Housing Proposed Rule, 78 Fed. Reg. 43,710, 43,712 (proposed July 19, 2013) (to be codified at 24 CFR pts. 5, 91, 92, 570, 574, 576, and 903).

29. See, e.g., Complaint, U.S. ex rel. Lockey v. City of Dallas, Tex., No. 3:11-CV-354-O (N.D. Tex. Jan. 23, 2013), 2013 WL 268371.

30. See *infra* Part V.

31. 42 U.S.C. § 14043e et seq.

32. Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs, Docket No. FR-5720-P-02, 21 (proposed March 25, 2015) (to be codified at 24 CFR pts. 5, 92, 200, 574, 576, 578, 880, 882, 883, 884, 886, 891, 960, 966, 982-83), available at <http://portal.hud.gov/hudportal/documents/huddoc?id=5720p02vawa2013proprule.pdf> (defining covered housing provider to include "state or local government[s]" that have "responsibility for the administration and/or oversight of VAWA protections" and noting that "VAWA protections

and responsibilities are not limited to PHAs, owners, and managers of assisted housing.”)

33. 42 U.S.C. § 14043e-11(a)–(b).

34. 42 U.S.C. § 14043e-11(b); 24 CFR § 5.2005.

35. See *California Motor Transport Co. v. Trucking Unlimited*, 405 U.S. 508 (1972); *McDonald v. Smith*, 472 U.S. 479, 482 (1985); *Jackson v. New York State*, 381 F. Supp. 2d 80 (N.D.N.Y. 2005) (holding that a plaintiff’s actions in seeking enforcement of an order of protection was protected by the First Amendment); *Anderson v. City of N.Y.*, 2000 WL 1010984 at *4 (E.D.N.Y. 2000) (finding that the right to petition “arguably extends to . . . [the] right to lodge complaints with the police.”); *Meyer v. Bd. of Cnty. Comm’rs of Harper Cnty., Okla.*, 482 F.3d 1232, 1243 (10th Cir. 2007) (quoting *Morris v. Dapolito*, 297 F. Supp. 2d. 680, 692 (S.D.N.Y. 2004)) (finding that “[f]iling a criminal complaint with law enforcement constitutes an exercise of 1st Amendment right to petition” . . . even an “attempt to report a criminal offense is protected by the First Amendment.”).

36. Klein, *supra* note 6, at 7.

37. *Mariemont Apartment Assn. v. Village of Mariemont*, 2007 WL 120727 at *7-8 (Ohio Ct. App. Jan. 19, 2007) (finding a procedural due process violation because the ordinance did not provide for a pre-deprivation hearing, failed to establish a time frame for filing an appeal, and allowed for only a short stay of enforcement); *Cook v. City of Buena Park*, 126 Cal. App. 4th 1, 9 (Cal. Ct. App. 2005) (finding that a nuisance ordinance violated procedural due process by not mandating descriptions of the observed criminal activity upon which tenants could be evicted, giving a landlord just ten days to initiate an unlawful detainer action, and requiring the landlord to prevail in the unlawful detainer action).

38. Werth, *supra* note 4, at 19.

39. *Id.* at 19-20.

40. See, e.g., Complaint, *Peters v. City of Wilkes Barre*, No. 3:2015-cv-00152 (M.D. Pa. Jan. 22, 2015), available at <http://www.aclupa.org/our-work/legal/legaldocket/peters-v-wilkes-barre/>.

41. Minn. Stat. § 504B.205, subdivisions 2, 3 (“preempts any inconsistent

local ordinance” that requires an eviction or penalizes a landlord in response to calls for police or emergency assistance and protects tenants’ right to call the police in response to any conduct at the property); 53 Pa. Cons. Stat. Ann. § 304 (provides protections for any resident, tenant, or landlord who faces penalty under a local ordinance because police or emergency services responded to abuse, crime, or an emergency at a property. It also authorizes remedies in court against any municipality that violates these protections.).

42. New York Assembly Bill A.1322 (2015), available at http://assembly.state.ny.us/leg/?default_fld=&bn=A01322&term=2015&Summary=Y&Actions=Y&Memo=Y&Text=Y; Illinois General Assembly Bill SB 1547 (2015), available at <http://www.ilga.gov/legislation/billstatus.asp?DocNum=1547&GAID=13&GA=99&DocTypeID=SB&LegID=88215&SessionID=88>; Iowa House Bill HF493(2015), available at <https://legiscan.com/IA/bill/HF493/2015>

43. Briggs Complaint, *supra* note 18.

44. Release and Settlement Agreement, *supra* note 1.

45. *Id.*

46. Complaint, *Rizkalla v. Borough of Blakely*, No. 3:14-cv-02433 (M.D. Pa. Dec. 22, 2014); Complaint, *Hazleton v. Borough of Blakely*, No. 3:14-cv-02473 (M.D. Pa. Dec. 24, 2014); Terrie Morgan-Besecker, *Domestic violence victims sues Blakely over “disruptive conduct” ordinance*, THE TIMES TRIBUNE, Dec. 24, 2014, available at <http://thetimes-tribune.com/news/domestic-violence-victims-sues-blakely-over-disruptive-conduct-ordinance-1.1807608>.

47. Terrie Morgan-Besecker, *Blakely settles disruptive ordinance lawsuit*, The Times Tribune, Feb. 14, 2015, available at <http://thetimes-tribune.com/news/blakely-settles-disruptive-conduct-ordinance-lawsuit-1.183299.1>.

48. Complaint, *Peters v. City of Wilkes Barre*, No. 3:2015-cv-00152 (M.D. PA., Jan. 22, 2015), available at <http://www.aclupa.org/our-work/legal/legaldocket/peters-v-wilkes-barre/>.

49. See Anna Stolley Persky, *A Call for Help: An Ordinance That Evicts Tenants for Seeking Police Aid Is Putting Abused Women Out on the Street*, ABA J., Sept. 2013, at 14, 15; Grape Complaint, *supra* note 11

50. Stipulation of Settlement and Discontinuation, *Peeso v. City of Hornell*, No. 6:11-cv-06306 (W.D.N.Y. filed Nov. 14, 2011).

51. Norristown HUD Complaint, *supra* note 3; Norristown Conciliation Agreement, *supra* note 3; Berlin Conciliation Agreement, *supra* note 21.

52. Norristown HUD Complaint, *supra* note 3.

53. Norristown Conciliation Agreement, *supra* note 3.

54. Berlin Conciliation Agreement, *supra* note 21.

55. See ACLU Women’s Rights Project, *Nuisance Ordinances Undermine Law Enforcement Responses to Domestic Violence* (2015); Werth, *supra* note 4, at 12- 16.

56. Desmond & Valdez, *supra* note 7, at 131.

57. Soc. Science Research Council, *supra* note 7, at 2.

58. See, e.g., Release and Settlement Agreement, *supra* note 1; Kyle Wind, *Vandling council scraps sweeping proposed nuisance law*, THE TIMES TRIBUNE, Jul. 30, 2015, available at <http://thetimes-tribune.com/news/vandling-council-scraps-sweeping-proposed-nuisance-law-1.1527957>.

59. See, e.g., U.S. Dep’t of Justice, Civ. Rts. Div., *Investigation of the New Orleans Police Dep’t* 44 (Mar. 2011), http://www.justice.gov/crt/about/spl/nopd_report.pdf (finding “Inadequate policies and procedures, deficiencies in training, and extraordinary lapses in supervision have contributed to a systemic breakdown in NOPD handling of sexual assault investigations. . . [as well as] domestic violence cases, although not to the degree evident in sex crimes.”); U.S. Dep’t of Justice, Civ. Rts. Div., *Investigation of the Puerto Rico Police Dep’t* 57-58, 65-66, 100 (Sept. 2011), http://www.justice.gov/crt/about/spl/documents/prpd_letter.pdf (identifying department-wide failure to address domestic violence and sexual assault and identifying insufficient training as one cause of the pattern and practice of gender-biased policing).

60. ACLU Women’s Rights Project, *Safe Homes, Safe Communities: A Guide for Local Leaders on Domestic Violence and Fair Housing* (2015) (available at www.aclu.org/safehomes). ML

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or limit of liability which otherwise would apply.

(1) As soon as practicable, a determination shall be made as to whether an insufficiency exists. If it is determined that no insufficiency exists, the (designated official) promptly shall so advise the person filing the notice, and shall include a statement of the reasons why no insufficiency exists.

(2) If an insufficiency is found to exist, the municipality shall take one or more of the following actions as appropriate to the circumstances and shall, at an appropriate time, notify the person filing the notice of the actions taken or planned.

(a) If the insufficiency was temporary and no longer poses a hazard, the (official) shall determine the likelihood of another occurrence and what action, if any, is required to prevent or post warnings of such conditions. In most such cases, the posting of warnings is not required unless there is a reasonable likelihood of a recurrence of the insufficiency.

(b) If the insufficiency is not temporary, the (official) shall as soon as practicable post warning of the insufficiency. Within 72 hours after receipt of the notice of insufficiency, the (official) shall develop a plan to remedy the insufficiency. The plan shall be implemented in good faith within a reasonable time. If the insufficiency is not immediately remedied, appropriate warnings shall be continued. The municipality may take reasonable interim action and shall determine if warnings continue to be required. The reasonableness of any proposed action shall consider the requirements that the expenditure of municipal funds may be made only in accordance with proper procedures.

5. Municipal Observations and Inspections.

(A) *Scheduled and Regular Inspections.* As part of its routine road and sidewalk maintenance, the municipality will seek to conduct periodic inspections of their condition.

(B) *Actual Notice Observations.*

(1) In accordance with RSA 231:92, I (b), any official or employee designated in subparagraph (5) (B) (2) of this policy

who has actual notice or knowledge of an insufficiency by means other than a written notice filed in accordance with section 4, shall promptly report such insufficiency to (official) who shall take the same action as would be taken if the insufficiency was reported by written notice.

(2) The employees/officials required to act under subparagraph (5) (B) (1) are the following: (Selectman/Commissioner/Mayor/the Municipal Manager or Municipal Administrator/Municipal Clerk/any on-duty Fire or Police Personnel/Road Agent/Public Works Director).

(C) *Informal Observations.* Only knowledge by or notice to those officials or employees designated in paragraph (5) (b) shall impose an obligation to act as provided by RSA 231:92. While the municipality is not designating or authorizing any other municipal officials and employees to receive notice or otherwise commit the municipality to act, in the interest of safety and efficiency, all municipal officials and employees are encouraged to be observant of highway and sidewalk conditions and to advise (official) if they observe conditions which they believe might pose a problem. Any such observation provided to the municipality shall not constitute formal or actual notice or knowledge on the part of the municipality unless made in accordance with section 4 or an official designated in paragraph (5) (B) (2) has actual knowledge of an insufficiency through personal investigation or observation.

6. *Inclement Weather Practices.* In accordance with RSA 231:92-a, insufficiencies or hazards caused by snow, ice or other inclement weather shall be handled pursuant to the municipality's inclement weather policies and procedures.

Conclusion

This framework may not be appropriate for every municipality (particularly those fortunate enough to measure annual snowfall in millimeters and below-freezing days in the single digits, if at all). But the proposition that each jurisdiction should be fully aware of the roads for which it is liable, and that procedures for notice and remediation of defects be thoroughly spelled out, should apply to virtually all municipalities, whether ice-bound or tropical.

Notes

1. According to Wikipedia, "frost heaving" or "frost heave" is "an upwards swelling of soil during freezing conditions caused by an increasing presence of ice as it grows towards the surface, upwards from the depth in the soil where freezing temperatures have penetrated into the soil (the freezing front or freezing boundary). http://en.wikipedia.org/wiki/Frost_heaving.

2. <http://www.frostheaves.com/>.

3. <http://www.ncsl.org/research/transportation/state-sovereign-immunity-and-tort-liability.aspx>.

4. For example, New Hampshire imposes liability when a road for which a duty exists is "insufficient."

II. For purposes of this subdivision, a highway or sidewalk shall be considered "insufficient" only if:

(a) It is not passable in any safe manner by those persons or vehicles permitted on such sidewalk or highway by state law or by any more stringent local ordinance or regulation; or

(b) There exists a safety hazard which is not reasonably discoverable or reasonably avoidable by a person who is traveling upon such highway at posted speeds or upon such sidewalk, in obedience to all posted regulations, and in a manner which is reasonable and prudent as determined by the condition and state of repair of the highway or sidewalk, including any warning signs, and prevailing visibility and weather conditions. [NHRSA 231:90, II.]

5. Of course, each jurisdiction has its own set of rules governing liability. Sometimes the requirement that municipalities have notice of defects or insufficiencies is stated as arising from the notion that local governments are not required to be guarantors of public safety on all public roads.

6. *Bancroft v. Town of Canterbury*, 118 NH 453 (1978).

7. A New Hampshire town learned the "hard way" that lack of definitive statements of a road's classification, accompanied by inaccurate statements by a town official could lead a court to rule that a class VI or private road would be deemed a public road that the town had a duty to maintain, *Turco v. Barnstead*, 136 N.H. 256 (1992).

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will be deemed to have a discriminatory effect if it imposes a burden on out-of-state interests that in-state interests will not bear,¹⁸ or the state law excludes virtually all out-of-state actors from a market.¹⁹ A review of the relevant case law suggests that California's egg statute does not so burden or exclude out-of-state actors, and therefore the law does not have a discriminatory effect.

Accordingly, the constitutionality of the law will ultimately hinge on the *Pike* test.

Under *Pike*, the Court considers whether the objectives of the law can be achieved through reasonable and less restrictive alternatives,²⁰ and the extent to which the statute in question has "extraterritorial effects."²¹ Based on these factors, challengers may argue that California's egg law does not survive the *Pike* test.

The stated purpose of the egg law is to promote consumer health and safety. Opponents of the law will argue that this interest can be achieved through less burdensome means, such as California's adoption of a robust labeling scheme or public service campaign to educate consumers.

Out of state producers also assert that the extraterritorial effects of the law make it unconstitutional. California, the most populous state in the country, imports one-third of its egg supply and can purchase as much of 30 percent of the eggs produced in a single state.²² Because California represents such a substantial portion of the market, the state can significantly impact standards for egg production on a national scale. The ability of a single state to create *de facto* national production standards in an industry as important and far-reaching as food production may be challenged as wholly inconsistent with the purposes of the Commerce Clause. Enforcement of the law would seem to require California to become actively involved in monitoring egg production nationwide. To detractors, such a result would fly in the face of federalist principles, as the authority to regulate commerce among the states lies primarily with Congress. Moreover, they assert, if the law is upheld it would create a dangerous precedent, because it would establish legal footing for California and other states to enact conflicting legislation.

The need for uniform food safety

standards is important to provide clarity and stability to producers and consumers alike. However, efforts to enact federal legislation that would preempt California's legislation have stalled.²³

Notwithstanding the arguable invalidity of the law under the traditional Commerce Clause analysis, the law seems likely to survive. The Ninth Circuit has upheld similar animal welfare statutes.²⁴ In addition, over the last two decades, the Supreme Court's interpretation of the dormant Commerce Clause has shifted.²⁵ Under *Pike*, the justices retain substantial discretion. The Court has deviated from traditional dormant Commerce Clause analysis, as evidenced by its increasing willingness to carve out new exceptions to the general prohibition on state regulation.²⁶ As such, it appears that the Court would not block such a law.

In any event, for now the Commerce Clause has not deprived the egg-laying chickens in the Golden State—and their hard-working kin in other states that export eggs to California—of the right to 116 square inches of personal space.

Notes

1. Missouri v. Harris, No. 2:14-CV-00341, 2014 WL 840950 (E.D. Cal. Feb. 3, 2014).

2. AB 1437, Gen. Assemb. (Cal. 2010) (Codified in Cal. Health & Safety Code §§25995-97).

3. Cal. Health & Safety Code §25990.

4. Cal. Code Regs. 3 tit. 3 § 1350, providing in part that "[a]n enclosure containing nine (9) or more egg-laying hens shall provide a minimum of 116 square inches of floor space per bird."

5. Missouri v. Harris, No. 2:14-CV-00341, 2014 WL 840950 (E.D. Cal. Feb. 3, 2014).

6. Amended Complaint at 2, Missouri v. Harris, No. 2:14-CV-00341, 2014 WL 1245038 (E.D. Cal. Mar. 3, 2014).

7. Missouri v. Harris, 2014 U.S. Dist. LEXIS 141337 at 25-28 (E.D. Cal. Oct. 1, 2014).

8. *Id.* at 28-38.

9. *Id.*

10. *Id.* at 48.

11. Notice of Appeal, Missouri v. Harris, No. 2:14-CV-00341 (E.D. Cal. Oct. 24, 2014).

12. U.S. CONST. ART. 1, § 8

13. James L. Buchwalter, *Construction and Application of Dormant Commerce Clause*,

41 A.L.R. Fed. 2d 1 (2009) ("Although the Commerce Clause is a power-allocation provision giving Congress preemptive authority over the regulation of interstate commerce, it is also a substantive restriction on permissible state regulation of interstate commerce.").

14. *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142 (1970).

15. Cal. Health & Safety Code § 25995.

16. Amended Complaint at 3, Missouri v. Harris, No. 2:14-CV-00341, 2014 WL 1245038 (E.D. Cal. Mar. 3, 2014).

17. In an effort to show discriminatory intent, plaintiffs rely primarily on reports by state administrative agencies that were issued *after* the law had already been passed by the state legislature. See *Maine v. Taylor*, 477 U.S. 131, 149-50 (1986) (finding that comments made by a state administrative agency after the statute's enactment constituted weak evidence of legislative intent).

18. See *Hunt v. Washington Apple Adver. Comm'n*, 432 U.S. 333 (1977); *West Lynn Creamery v. Healy*, 512 U.S. 186 (1994) (invalidating laws that imposed burden only on out-of-state competitors).

19. See e.g. *C & A Carbone v. Town of Clarkstown*, 511 U.S. 383 (1994); *Brimmer v. Rebman*, 138 U.S. 78 (1891); *Deans Milk Co. v. Madison*, 340 U.S. 349 (1951).

20. *Pike*, 397 U.S. at 142; See e.g. *Minnesota v. Clover Leaf Creamery*, 449 U.S. 456, 473 (1981) (upholding state law banning plastic milk containers because there was no less restrictive alternative).

21. See e.g. *Healy v. Beer Institute*, 491 U.S. 324, 336-37 (1989) ([T]he practical effect of the statute must be evaluated not only by considering the consequences of the statute itself, but also by considering how the challenged statute may interact with the legitimate regulatory regimes of other States and what effect would arise if not one, but many or every, State adopted similar legislation. Generally speaking, the Commerce Clause protects against inconsistent legislation arising from the projection of one state regulatory regime into the jurisdiction of another State."

22. See Amended Complaint at 10, Missouri v. Harris, No. 2:14-CV-00341, 2014 WL 1245038 (E.D. Cal. Mar. 3, 2014);

23. Dan Wheat, *Push for national chicken cage standards stalls*, Capital Press http://www.capitalpress.com/Nation_World/Nation/20150102/push-for-national-

Federal Cont'd from page 38

chicken-cage-standards-stalls (last updated Jan. 5, 2015, 2:39 PM).

24. See e.g. *Ass'n des Éleveurs de Canards v. Harris*, 729 F.3d 937, 2013 U.S. App. LEXIS 18154, 2013 WL 4615131 (9th Cir. 2013) (affirming the denial of an injunction to prevent the enforcement of a California statute that forbids the sale of products resulting from force fed birds in the state, finding no Commerce Clause violation).

25. See generally, Brannon P. Denning, *Extraterritoriality and the Dormant Commerce Clause: A Doctrinal Post-Mortem*, 73 La. L. Rev. (2013); <http://digitalcommons.law.lsu.edu/lalrev/vol73/iss4/5>.

26. Denning, *supra*, note XXV. **ML**

Listserv Cont'd from page 29

threatened with physical harm.

I receive 1.2 million e-mails every day and have time to answer four of them.

I answer lots of questions from people in my doorway who wonder if I have a minute and then leave an hour later.

I counsel and console.

I reprimand and admonish.

I advise (and get ignored).

I advise again (and get ignored again).

I try to convince co-workers that I truly don't remember anything about divorce law.

I hand out a lot of phone numbers for lawyers that do divorces.

I get ignored some more.

I pick my battles and refuse to be ignored when it really matters.

I protect my client's representatives to the extent they are watching out for its best interests.

I protect my faceless client like a fat kid covers the last piece of cake.

Okay. But Why?

sigh If I could definitively answer that question, I could save all of us a lot of money in the therapist's office and at the liquor store. I suppose, if I'm completely honest with myself, I like being part of something as critically important as local government. We're never going to be wealthy lawyers by the world's standards and most of us are never going to be legendary legal gods, two things that, I sheepishly confess, bothered me the first few years of my municipal career. I guess it's true, though, that with age comes wisdom and I have left those concerns further and further behind

me as I've become more and more aware of the direct impact local government has on the quality of life for the people around me. (It also could be that with age comes laziness and I just don't feel like expending the energy to worry anymore. You'll have that.)

I have to say, though, that my "why" recently has become clearer. When I began writing this article, things were rolling along as usual: too much to do and not enough time to do it, but it all was general, garden-variety municipal work. And then, in a moment, life changed and work stopped and attention shifted to matters larger and more intense than I could have ever imagined.

The details of my Moment aren't important because, for each of us, there has been or will be a Moment that defines our "why." A Moment may be the result of a natural disaster ravaging your city or a school shooting or a bad decision or a political scandal or one of the billion other things completely outside of the individual, direct control of a city attorney. Trust me: the genesis doesn't matter when you define your "why." Nothing matters as you realize that your presence as legal counsel for your city right then, in that Moment, matters more than anything else you've done in your career and instinctively you know that it will greatly matter in all of the hours and days and weeks and months to follow. Your presence, your help, your mind, your experience will make a difference for this client and its people and you suddenly realize why you do this. It's because protecting this faceless client is as much a part of who you are as the color of your eyes and you know that this is why you were put on this spinning terrarium – to protect and serve and defend in this Moment and in all the little "m" moments to follow.

You were put here to pick up these pieces and help your city put itself back together. You are here to handle the Moment, counsel shaken employees who are suddenly willing to listen, and send them back to the comfort of their daily work with the confidence and knowledge that they've got it now.

You do it because that's who you are. It's who you were made to be.

And after everyone else has moved past the Moment, you will continue to deal with it and its consequences and its mind-numbing minutiae that nobody else will ever see. But you see it, you live it, you breathe it, you lose sleep because of it ... because you're still there, camped out in the Moment long after it's over.

That's just what you do.

In fact, you've been in the damn Moment armpit deep from the time it happened and you

know you'll stay in it until the file is finally closed and stored away. You'll do that for the employees and the electeds and the department heads so they can return to the important work they do for your client and for its citizens. You'll handle the Moment and still manage the zillion other issues that won't stop coming just because you've had your Moment. You'll keep going because your city and its operation under the unique laws that govern its ultimate success or failure is in your hands. You'll stay in that Moment for as long as it takes because municipal law found you and you couldn't let it go and now it's who you are. It's what you proudly do even if it seems nobody understands what it is or why you do it.

Hear me, though: I understand. I know what it is you do and I get why you do it.

And I'm floating on this timber with you. **ML**

Second Look Cont'd from page 23

support the LGO's position – giving little weight to such evidence even if they heard it. By contrast, any opinion adverse to the LGO from the LGO's own expert employee would be pure gold for the opponent. Designating all your expert employees as consulting experts in an attempt to insulate their opinions from discovery will probably not work even if done in good faith because the limits on discovery about consulting experts usually applies only to consultants specially retained for the litigation, not to general employees. See Notes of Advisory Committee on Rules—1970 Amendment, Fed. R. Civ. P. 26 (discussing Rule 26(b)(4)(B) [now 26(b)(4)(D)]).⁴ Time and resources permitting, the LGO's lawyer could question each such employee and obtain an affidavit neutralizing the employee's usefulness as a hostile expert witness if the affidavit were truthful. Otherwise, my best suggestion would be to encourage LGO's to hire and train their expert employees carefully so that they hold in common the significant opinions relating to the subject of their work. In some instances the most effective deterrent to such tactics will be that the adverse party will be equally or more vulnerable to this approach as the LGO.

Conclusion. An LGO has a strong likelihood of success in helping an employee who does not want to testify as

an expert (in a case where the LGO is not a party) quash a subpoena. But an LGO trying to prevent a willing employee from testifying as an expert will face substantial difficulties – particularly if the employee receives a subpoena and does not wish to quash it. Local law and agreements permitting, an LGO’s personnel policy or ordinance restricting the right of employees to testify as experts in litigation to which the LGO is not a party could be enforceable if the factors for determining availability relate to the efficiency of government operations and allocation of resources and not on the anticipated content of the testimony. LGO’s can almost certainly require the employee who wants to testify as an expert to take vacation time if that requirement were not imposed only when the anticipated testimony could hurt the LGO. But if instead an LGO refused to grant vacation for any testimony, and continued to pay the employee regardless of the nature of the litigation or of the testimony, might the LGO be able to retain greater control of content? I do not know but I doubt it. I think this would be viewed as a wrongful, perhaps criminal, attempt to influence testimony. Keeping the employee on duty might help the LGO prohibit expert compensation to the employee – thereby perhaps weakening the employee’s motive to testify. But keeping the testifying employee on duty also weakens the force of the argument that the witness’ testimony is not given on behalf of the LGO and therefore should not be admissible as an employee’s statement as a hearsay exclusion under evidence rule 801(d)(2)(D). Also, the more that restrictions on an employee’s availability relate to whether the testimony will later harm the LGO employer, the more likely that the LGO could face civil rights liability on the theories adopted by the Fifth and Ninth Circuit cases cited above. The LGO might explore the possibility of invoking conflict of interest, other ethics rules, and unlawful gratuity prohibitions, but should be careful to do this, if at all, using carefully considered content-neutral standards. Where the LGO is a party to litigation, it is very difficult to prevent an employee with expertise from being deposed or called as a witness by another party.

Notes

1. Different but often related problems are presented regarding consultants

and other contractors used by LGOs. For example, will an LGO’s ediscovery vendor testify for adverse parties or testify in a case unrelated to the LGO but generate testimony that might be used to impeach the vendor as a witness for the LGO in later litigation? LGO’s probably can draft contracts to avoid some but probably not all such problems. I am not going to discuss contractor issues here. But for both employees and contractors, we should consider that any clauses in contracts or personnel policies that restrict the subject matter or content of their potential expert testimony will be used to oppose their expert qualifications and, if they do testify as experts, to impeach the weight of their expert opinions if the LGO ever tries to use them as testifying experts. (“Q. Isn’t it true that your contract prohibits you from testifying to an opinion adverse to the city?”). Also consider that, as with expert employees, any attempt to limit testimony may run into free speech and anti-competition arguments. In addition, what effective enforceable remedy could an LGO have for breach of a contract clause relating to the vendor’s expert testimony? Would a court award damages to an LGO based on a vendor’s truthful testimony? Finally, what value would any conceivable contract provision have if it could not bind former employees of a vendor – and I strongly doubt that a contract between an LGO and a vendor, even if incorporated into a vendor’s employment contract with its experts, could bind the expert to any extent useful to the LGO after the expert left the vendor’s employment.

2. The LGO would have to be very careful to avoid even appearing to be trying to tamper with the witness’ testimony. I recommend that any attempt to get relief be accomplished only in open court.

3. § 301. Departmental regulations
The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public.

4. However, some jurisdictions prohibit

one party from calling another party’s expert as a witness. See e.g., *Spino v. John S. Tilley Ladder Co.*, 448 Pa.Super. 327, 353-54, 671 A.2d 726, 739 (1996), *aff’d*, 548 Pa. 286, 696 A.2d 1169 (1997). **ML**

If you are interested in presenting a paper at one of these future conferences or seminars, please mail information to IMLA or contact IMLA at info@imla.org.

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From: Dorothy McGinnis
To: [Adams, Barb](#); [Anderson, Marti](#); [Austen, Joe B.](#); [Basinger, Jean](#); [Bettis, Rita](#); [Bomhoff, Teresa](#); [Brizzi, Karla](#); [Bromwell, Karla](#); [Burns, Rachel](#); [Campbell, Amy](#); [Carmichael, Pam](#); [Coppola, Cyndy](#); [Cownie, Frank](#); [Davydov, Kelly](#); [Dirks, Judy](#); [Eagle, Joyce](#); [Fleming, Gino](#); [Fortney, Robin](#); [Franklin-Devine, Phyllis](#); [Gerken, Christie](#); [Hawk, Shari](#); [Hayes, Lorrie and Michael](#); [Hibbs, Carol and Rolland Riley](#); [Hill, Jessie](#); [Hutchison, Sherry](#); [Kahoun, Kathy](#); [Kaufman, Gary](#); [Lehl, Deanna](#); [Matson, Heather](#); [McCoy, Matt](#); [McGinnis, Dottie](#); [McMahon, Julie](#); [Meylor, Susan](#); [Miller, MaryEllen](#); [Nelson, Charlotte](#); [Newlin, Doris Jean](#); [O'Shea, Noreen](#); [Outcalt, John](#); [Owens, June](#); [Pederson, Sally](#); [Person, Karen](#); [Petersen, Janet](#); [Racki, Joan](#); [Reynolds, Stephanie](#); [Rowe, Rachelle](#); [Staples, Marilyn](#); [Turner, Deborah](#); [Weiner, Margaret](#); ["Zimmerman, Sandy"](#)
Subject: FW: Report on SOS's Election Integrity Act
Date: Wednesday, February 01, 2017 9:56:13 AM

Dear League Members,

I am forwarding you an email from the State President. Please read and contact the Metro Board members with your comments. We will be discussing this issues at our Board meeting this Saturday after our book discussion.

Please note that there is no attachment from Amy Campbell.

Thanks

Dorothy McGinnis

From: Kathy KAHOUN [mailto:kah6781@msn.com]
Sent: Tuesday, January 31, 2017 8:14 AM
To: Dorothy McGinnis <dbmcginnis@mchsi.com>
Subject: Fwd: Report on SOS's Election Integrity Act

Sent from my iPhone

Begin forwarded message:

From: Syndy Conger <syndymc67@gmail.com>
Date: January 30, 2017 at 1:07:35 PM EST
To: Bonnie Pitz <dbpitz@iowatelecom.net>
Cc: Amy Campbell <amy@ialobby.com>, Bev Ver steegh <bversteegh01@gmail.com>, Doris Kelley <djkelley@cfu.net>, Gaylen Woebeter <gaywob@live.com>, Henrietta Saunders <HSaunders@lww.org>, Karen Person <lwwkaren@yahoo.com>, Linda Meloy <lmeloy3@gmail.com>, Mary Ann Nelson <mrsmanelson@yahoo.com>, Mary Rae Bragg <bragg.maryrae388@gmail.com>, Nancy Porter <porternancy@msn.com>, Polly Horton <pollyshorton@gmail.com>, Sue Wilson <wilsonsue@mchsi.com>, Warren - Terese Grant <wagntag@gmail.com>, Jane Odland <j.odland02@gmail.com>, Becca Davis <rgoltz@iowatelecom.net>, David Halaas <david.halaas.rev@wisynod.org>, Devita Harden <devita467@gmail.com>, Gerri Perreault <geraldine.perreault@gmail.com>, Kathy Kahoun <Kah6781@msn.com>, Myrna Loehrlein <mloehr@imonmail.com>, Prenosil Tamara Jo <potpren@mchsi.com>, Sue

Johannsen <suejohannsen@gmail.com>, Theresa Weaver-Basye
<tweaverbasye@gmail.com>, Linda Murken <lindamurken@gmail.com>

Subject: Re: Report on SOS's Election Integrity Act

Our auditor Travis Weipert reported at our forum yesterday that that's what auditors are recommending.

On Mon, Jan 30, 2017 at 12:05 PM, <dbpitz@iowatelecom.net> wrote:

I am studying this information. Could SOS ask for more money without a bill?
That seems to be the crux of the problem. Bonnie

From: [Mary Rae Bragg](#)

Sent: Sunday, January 29, 2017 3:25 PM

To: [Amy Campbell](#) ; [Bev Ver steegh](#) ; [Bonnie Pitz](#) ; [Doris Kelley](#) ; [Gaylen Woebeter](#) ;
[Henrietta Saunders](#) ; [Karen Person](#) ; [Linda Meloy](#) ; [Mary Ann Nelson](#) ; [Mary Rae Bragg](#) ;
[Nancy Porter](#) ; [Polly Horton](#) ; [Sue Wilson](#) ; [Warren - Terese Grant](#) ; [Jane Odland](#) ; [Becca Davis](#) ;
[David Halaas](#) ; [Devita Harden](#) ; [Gerri Perreault](#) ; [Kathy Kahoun](#) ; [Myrna Loehrlein](#) ;
[Prenosil Tamara Jo](#) ; [Sue Johannsen](#) ; [Syndy Conger](#) ; [Theresa Weaver-Basye](#)

Subject: Report on SOS's Election Integrity Act

Dear local League presidents,

Please forward this email and attachment to all your members.

We know many of you are anxious to know of discussions taking place in the Capitol in regards to voting laws being considered.

Attached to this message is a report from League Lobbyist Amy Campbell, telling about the meeting we were invited to have with the Secretary of State Tuesday afternoon. We spent more than an hour with Secretary Pate and members of his staff, discussing various points in his proposal and expressing our concerns. He did not ask for a League endorsement of his bill, merely to understand what he hopes to accomplish with it.

It is important that we all accept that some kind of voter ID bill will be passed this session. There are bills other than the Secretary's that are coming forth and we've yet to hear of any as reasoned or informed as his proposal. And he has repeatedly asked for our input.

Myrna concisely puts her thoughts about the SOS bill this way:

The good news is everyone currently registered or registered in the future will automatically receive an ID; the ID does not require a photo; the post election audit can if properly structured help track the effect of Voter ID; curing a provisional ballot can, if properly structured, avoid many of the inconveniences that can result in disenfranchisement and student IDs, if revised to carry an expiration date, could be accepted.

The concerns are that curing the ballot could be made so difficult that it effectively negates the vote; getting replacement Voter ID cards must be easy without diluting the security of the card; voters must be allowed to vote by

providing the ID number without showing their card; enough money has to be allocated; all citizens must be educated about the ID.

Please note Amy's final recommendations in her report. We have the option of harping on the fact that there's no proof of voter fraud, (an argument that has not been a success with the wide majority of voters) or we can agree that we, too, want to insure voter integrity, but want to do so making sure that no one is left behind.

Interestingly, I received a message Friday from the president of the Missouri League, who says that after a **10-year** battle against voter ID in her state, the Missouri Legislature has finally enacted such a bill.

Personally, rather than a decade of frustration and division, I would prefer our League take the occasion this year to shape Iowa's legislation and make the final bill one that we can live with and use to voters' advantage.

Myrna (myrnaloehr@gmail.com) is waiting to hear from you as you volunteer to join her on the League's newly-formed Voting Rights Committee. There is much that you can be doing to guarantee Iowa's wonderful tradition of voting excellence. Let's stand together and deliver!

Mary Rae and Myrna

From: Linda Westergaard
To: melpins69@msn.com; [Cownie, Frank](#); [Emily Westergaard](#)
Subject: FW: Scan from BHHS-First Realty Altoona
Date: Saturday, February 10, 2018 1:27:50 PM
Attachments: [BHHS-East--FRE1_20180210_130531.pdf](#)

Just sharing more garbage from Cherie and Heather on Next Door Neighbor.

Thank you,

Linda Westergaard, Realtor
Berkshire Hathaway HomeServices First Realty
3770 8th Street SW, Suite J
Altoona, Iowa 50009
515-988-4288

[Facebook.com/thewestergaardgroup](https://www.facebook.com/thewestergaardgroup)

www.lindawestergaard.com
Lindaw@BHHSFirstRealty.com

Licensed to sell Real Estate in the state of Iowa

-----Original Message-----

From: FRcopiers@BhhsFirstRealty.com [<mailto:FRcopiers@BhhsFirstRealty.com>]
Sent: Saturday, February 10, 2018 1:06 PM
To: Linda Westergaard <lindaw@bhhsfirstrealty.com>
Subject: Scan from BHHS-First Realty Altoona

Reply to: BHHS-East- <FRcopiers@BhhsFirstRealty.com> Device Name: First Realty Altoona Device Model: MX-M465N

Location: First Realty Altoona

File Format: PDF MMR(G4)
Resolution: 200dpi x 200dpi

Attached file is scanned image in PDF format.

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dissemination, distribution, or copying of this message, or any attachment, is strictly prohibited. If you have received this message in error, please notify the original sender immediately by return email and delete this message, along with any attachments, from your computer. Thank you.

SAY NO to the 1% sales tax being pushed by DM city government. Tax revenue in the past was suppose to be invested in infrastructure and housing but instead DM has dumped millions of our tax money into corporate welfare given to successful companies that didn't need it, Wells Fargo, Principal, KUM and GO, just to name a few.

City officials illegally charged a franchise fee and had to pay back \$40 million! Cost over-runs on the renovation to the City Hall building are in the millions.

WE already paid to get improvements in our neighborhoods and yet our streets are poor and we don't have enough affordable housing. Reducing Euclid to 2 lanes might improve walkability, but it won't attract people to move to Highland Park if there isn't decent housing stock and too many blighted properties. The Eastside has an over concentration of subsidized housing that reflects poor planning. If there isn't decent housing stock and slumlords aren't held accountable in our neighborhoods crime will still be an issue. We need more city inspectors and compliance officers...they are buried now. Where's the money for that!

The Mayor and city manager Scott Sanders managed to get enough council members to buy into this propaganda to invest enormous amounts of revenue into downtown. Now, neighborhoods are howling at the lack of resources directed to neighborhoods. So, they want us to "Pay AGAIN."

Sales taxes are always harder on the poor and middle class. And, we have an epidemic of low wage earners unable to make ends meet. Payday lenders are having a hay day. City officials think this tax will be painless....really, how out of touch is that?

If they get the money now...it vindicates them from taking the blame and they will point to a few pet projects. I'm not in favor of giving them more of our tax money. We need new leadership beginning with the Mayor Frank Cownie and city manager Scott Sanders and Linda Westergaard who supports the tax.

Edited 12m ago · 20 neighborhoods in General (/general/)



Thank



Reply

2 Replies (/news_feed/?post=76272370)



(Anella Moore profile/5068178/), Highland Park · 49m ago

Respectfully, you're conflating actions by the state and other municipalities with Des Moines. I support the increase. Positive change can't come without investment.



Thank 1 Thank



(Charlie Morrison profile/23559868/), Fairmont Park · Edited 14m ago

No, the city council was ALL in on these deals. Crossroads USA,,the Tomorrow Plan... give aways to big business and corporate self interest. I attended the meetings initially. It was disheartening to se how little they cared about our neighborhoods.

I agree that we have to invest,,,but Frank and Scott Sanders helped AND supported the give aways at our expense. Scott Sanders spearheading much of it. There could have been a more BALANCED approach instead of dumping vast revenue resources on downtown and East Village and more investment in neighborhoods. I'm not against development....I want a broader view instead of favoring downtown and a handful of neighborhoods.

Mayor Frank Cownie, Council members Linda Westergaard and Connie Boesen were at our EDM Dems meeting Wednesday night....all supporting this regressive tax that burdens the poor and middle class the most. Frank attempted to defend it. Poor performance. Listen to the livestream.

I'm not willing to give more money to vindicate them when we pleaded for more investment in poorer neighborhoods. I'm waiting for new leadership first.



Thank

From: Romer, Amanda M.
To: [Cownie, Frank](#)
Cc: [T M Cownie](#)
Subject: FW: TIME SENSITIVE: CUIA Draft Amicus Brief Attached
Date: Tuesday, March 24, 2015 8:34:24 AM
Attachments: [5th Circuit Amicus Brief on Immigration Action.pdf](#)
[Cities" Amicus Supporting Immigration Executive Action.pdf](#)

From: McIntyre, Geraldine [mailto:GMcIntyre@cityhall.nyc.gov]
Sent: Monday, March 23, 2015 5:28 PM
To: Romer, Amanda M.
Subject: FW: TIME SENSITIVE: CUIA Draft Amicus Brief Attached
Importance: High

Hi Amanda,

Sharing with you this opportunity for Mayor Cownie to join a cities' amicus brief we are filing at the Fifth Circuit in the *Texas v. U.S.* case. The brief is attached, as well as a memo that gives some context and more details. We filed a similar brief with the district court that included 33 mayors, U.S. Conference of Mayors, and the National League of Cities.

It would be wonderful to have Mayor Cownie join the brief! Let me know if you have any Qs! Deadline is this Thursday to sign on.

Best,
Geraldine

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From: Andre, Richard
Sent: Monday, March 23, 2015 2:52 PM
To: Andre, Richard
Cc: 'Shweder, Jeremy (Law)'
Subject: TIME SENSITIVE: CUIA Draft Amicus Brief Attached
Importance: High

Dear all, as promised, attached is the draft amicus brief to be filed in the Fifth Circuit Court of Appeals. Please be aware that this document may undergo minor changes between now and when it

is filed.

As a reminder, **we need all signature blocks by COB this Thursday, March 26**. We are asking that mayors, cities, county executives and counties sign onto the brief through their attorneys or through the appropriate city attorney. To join the brief, have a legal or otherwise authorized representative of your city or county send an email **ASAP** to Jeremy Shweder (copied here) and me with a signature block that follows the format below:

Zachary W. Carter
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New York, NY 10007
Attorney for Bill de Blasio,
Mayor of New York

Note: For cities/counties that have already sent us their signature block for this brief, we will assume you are signing on unless you tell us otherwise. And if you signed onto the previous district court brief back in January, we still need confirmation that you'll be joining this brief as well.

Thanks all,

-Rich

From: Andre, Richard
Sent: Wednesday, March 18, 2015 4:02 PM
To: Andre, Richard
Cc: 'Shweder, Jeremy (Law)'; Lin, Sonia; Gann, Georgia
Subject: CUIA - Amicus Call Recap & Deadlines
Importance: High

Dear all, thanks for joining this afternoon's call—there's clearly a lot of interest in this effort among our cities. As we discussed, the Administration is moving aggressively in the *Texas v. US* case so that DHS can move forward with implementation of expanded DACA and DAPA. Last week, the DOJ made a request to the Fifth Circuit Court of Appeals, asking for a deadline of **Monday, March 30** to file their brief and any amicus brief—including this one—and the Court is likely to approve the scheduling request.

Cities and counties thus have a quick timeline to submit their amicus brief in support of DOJ's appeal and executive action. We are reattaching the memo we sent around yesterday, which describes the forthcoming amicus brief and gives instructions for how you can sign on. **Cities and counties that wish to sign on now should send their attorney's signature block to Jeremy Shweder (jshweder@law.nyc.gov) ASAP.**

Otherwise, New York City will circulate a draft amicus brief to everyone on **Monday, March 23**, and if you'd like to sign on, **we will need your signature block by COB on Thursday, March 26**, to leave sufficient time for formatting and filing the brief.

We will follow up with each city and county individually over the next few days. If you have any questions, feel free to contact Jeremy or me. We look forward to hearing from you all!

-Rich

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No. 15-40238

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

STATE OF TEXAS, *et al.*

Plaintiffs-Appellees,

v.

UNITED STATES OF AMERICA, *et al.*

Defendants-Appellants.

On appeal from the United States District Court
Southern District of Texas Brownsville Division
No. 1:14-cv-00254 (Andrew S. Hanen, J.)

**BRIEF FOR AMICI CURIAE THE MAYORS OF NEW YORK AND LOS
ANGELES, __ ADDITIONAL MAYORS, CITIES, COUNTY
EXECUTIVES, AND COUNTIES, THE UNITED STATES CONFERENCE
OF MAYORS, AND THE NATIONAL LEAGUE OF CITIES
IN SUPPORT OF APPELLANTS**

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INTRODUCTION AND INTEREST OF THE AMICI CURIAE

Amici are ___ mayors, cities, county executives, and counties from across the country, including Mayor Bill de Blasio of New York, New York; Mayor Eric Garcetti of Los Angeles, California; [*MORE TO COME*]

The *amici* mayors, county executives, and local governments have a compelling interest in this appeal and in demonstrating that the district court's grant of a preliminary injunction is strongly contrary to the public interest. Local officials witness every day the contributions that immigrants make to their neighborhoods and communities, as well as the harms that result from keeping long-time residents of those neighborhoods and communities in the shadows due to questions about their immigration status. *Amici* also see and must address the harms to families and children that an ongoing threat of deportation produces. A great number of the estimated 11 million undocumented immigrants in the United States¹ have lived in *amici*'s cities and counties for a decade or more.² So, the mayors, county executives, and cities represented in this brief have a distinctive, on-the-ground perspective and understanding of how the proposals for temporary

¹ See, e.g., Jens Manuel Krogstad & Jeffrey S. Passel, Pew Research Ctr., *5 facts about illegal immigration in the U.S.* (Nov. 18, 2014), available at <http://www.pewresearch.org/fact-tank/2014/11/18/5-facts-about-illegal-immigration-in-the-u-s> (estimating 11.2 million undocumented immigrants based on 2012 data).

² Pew Research Ctr., *A Nation of Immigrants*, (Jan. 29, 2013), available at <http://www.pewhispanic.org/2013/01/29/a-nation-of-immigrants> (noting that in 2010, nearly two-thirds of undocumented adult immigrants had lived in the United States for at least a decade).

relief from deportation outlined in the Secretary of Homeland Security's November 20, 2014 Deferred Action Guidance Memorandum (*see* Attachment 3 to Appellants' Emergency Motion for Stay Pending Appeal, filed March 12, 2015) (hereinafter, the "Executive Action") will affect eligible individuals, their families, and, indeed, all residents within *amici*'s jurisdictions.

Amici entirely support the Executive Action, which would allow eligible undocumented children and adults to apply for expanded "Deferred Action for Childhood Arrivals" ("expanded DACA") and eligible undocumented parents of U.S. citizen and lawful permanent resident children to apply for "Deferred Action for Parental Accountability" ("DAPA"). While *amici* recognize that others hold a different view about the Executive Action, it cannot be disputed that undocumented immigrants live in, work in, and form part of local communities and neighborhoods across this country—and have done so for some time. The Executive Action recognizes a reality that *amici* have long known: communities are safer, economically stronger, and better places to live when undocumented immigrants who have substantial and longstanding ties to their communities and who pose no threat to public safety are able to come out of the shadows, participate more fully in civil society, better contribute to the economic growth of their communities, and interact with government officials without fear. The Executive Action is a practical and much-needed exercise of enforcement discretion that will

allow those who qualify under expanded DACA and DAPA to participate more fully and safely in their cities, counties, and communities.

Amici demonstrate herein that a delay in implementing the Executive Action harms their cities and counties and all residents thereof by forestalling the critical benefits of that Action, which include increasing public safety and public engagement, fueling economic growth, and facilitating the full integration of immigrant residents by promoting family unity and limiting family separation. These benefits are real, and they will accrue day by day. By contrast, the plaintiffs have not identified any comparable concrete harm that would result from allowing the Executive Action to be implemented during the pendency of this case. The district court failed to consider the important and timely public interests that affect the ____ million people within *amici*'s jurisdictions, and this is one reason, among many, that the court's grant of a preliminary injunction should be reversed.

STATEMENT PURSUANT TO FED. R. APP. P. 29(c)(5)

No party to this proceeding authored any part of this brief. No party or counsel to any party to this proceeding, nor any other person other than *amici*, contributed money that was intended to fund preparing or submitting this brief.

ARGUMENT

The United States has well demonstrated the errors in the district court's holding that plaintiffs have a likelihood of success on the merits on their claim

under the Administrative Procedure Act. *Amici* focus here on the district court's failure to give appropriate consideration to the harms to the public interest that its preliminary injunction will cause. The grant of the preliminary injunction and corresponding delay in the implementation of the Executive Action is strongly contrary to the public interest, because the Executive Action will (a) increase public safety by encouraging immigrant residents to trust and cooperate with law enforcement; (b) fuel economic growth through job creation and new tax revenue; and (c) facilitate the full integration of immigrants into their communities and promote family unity. These important interests affect every resident of the ____ cities and counties that *amici* represent, day in and day out, and these interests must be taken into account when considering whether a preliminary injunction delaying implementation of the Executive Action pending the resolution of this case will serve, or disserve, the public interest. As *amici* demonstrate below, the Executive Action provides significant benefits to *amici* and the residents of *amici*'s cities and counties, and a delay in its implementation causes concrete and potentially irreversible harms.

I. The District Court Failed to Adequately Consider the Harm to the Public Interest

It is well established that plaintiffs are entitled to the extraordinary remedy of a preliminary injunction only if they can show (1) a likelihood of success on the merits; (2) a substantial threat of irreparable injury; (3) that the threatened injury outweighs any harm that will result if the injunction is granted; and (4) that the injunction will not disserve the public interest. *See Sells v. Livingston*, 750 F.3d 478, 480 (5th Cir. 2014). This Court reviews the district court’s analysis of these factors under an abuse of discretion standard, *see House the Homeless, Inc. v. Widnall*, 94 F.3d 176, 180 (5th Cir. 1996), but the Supreme Court has repeatedly confirmed that “[i]n exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction.” *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982); *see also Winter v. Natural Res. Defense Council, Inc.*, 555 U.S. 7, 24 (2008).

Here, however, the district court failed to “pay particular regard”—or, indeed, anything more than a superficial regard—for the harm that an injunction would cause to the public interest. *See* February 16, 2015 Mem. Op. and Order, Dkt. 145-2 at 120-121. Rather, based almost entirely on its finding that a single plaintiff State—Texas—would suffer irreparable harm because of the purported financial cost of processing additional driver’s license applications, the district court issued a nationwide injunction that has the direct effect of harming the public

interest across this country. In particular, the nationwide injunction runs counter to the interests expressed by the *amici* local governments that are represented here, as well as the expressed interests of 14 states and the District of Columbia, which filed their own amicus curiae brief in support of appellants.³

The district court erred in elevating the rather narrow economic interests of one plaintiff State over the countervailing and far broader public interests that the grant of the preliminary injunction will dramatically impair. This Court has stressed that when considering whether to issue a preliminary injunction, courts must look beyond “the immediate interests of the named litigants” and consider the widespread public interest that would be affected by granting or withholding the injunction. *Mississippi Power & Light Co. v. United Gas Pipe Line Co.*, 760 F.2d 618, 626 (5th Cir. 1985) (enjoining gas supplier from charging power company certain rates because of the “vital public interest involved in protecting the consumers of [the power company] against the harmful effect of overcharges”). But the district court failed to take into account any of the important benefits to *amici* and their residents that are discussed here and in the briefs of other *amici*.⁴

³ See *Texas v. United States*, No. 15-40238, Brief of the Amicus States of Washington, California, Connecticut, Delaware, Hawai’i, Illinois, Iowa, Maryland, Massachusetts, New Mexico, New York, Oregon, Rhode Island, and Vermont, and the District of Columbia, in Support of Motion to Stay District Court Preliminary Injunction, dated March 17, 2015.

⁴ See *Texas v. United States*, 1:14-cv-00254, Dkt. No. 81 (States’ Motion for Leave to Participate as Amici Curiae and Brief in Opposition to Plaintiffs’ Motion for Preliminary Injunction), Dkt. No. 83-1 (Amici Curiae Brief of Major Cities Chiefs Association, *et al.*, in Opposition to

The district court's disregard of the broader interests at play was improper, particularly since the public interest factor "primarily addresses impact on non-parties." *Hunter v. Hamilton County Bd. of Elections*, 635 F.3d 219, 244 (6th Cir. 2011) (internal quotation marks and citation omitted).

The district court's failure to properly consider the harm to the public interest was error, and its grant of a preliminary injunction should be reversed. *See, e.g., eBay Inc. v. MercExchange, LLC*, 547 U.S. 388, 394 (2006) (vacating judgment of court of appeals where "neither court below correctly applied the traditional four-factor framework that governs the award of injunctive relief"); *Edmisten v. Werholtz*, 287 F. App'x 728, 734-35 (10th Cir. 2008) (reversing and remanding the denial of a preliminary injunction due to the district court's failure to adequately analyze the public-interest prong).

II. Delaying the Implementation of the Executive Action Harms the Public Interest

A. The Executive Action Will Increase Public Safety by Encouraging More Immigrant Residents to Cooperate With Law Enforcement

The district court ignored the important interest of *amici* and the residents of *amici*'s cities and counties in increasing public safety, and further ignored that communities and their residents are harmed every day when benefits to the public

Plaintiffs' Motion for Preliminary Injunction), Dkt. No. 121 (Brief for Amici Curiae the Mayors of New York and Los Angeles, *et. al*, in Opposition to Plaintiffs' Motion for Preliminary Injunction).

safety are deferred. This Court has recognized that injunctions which limit the police's ability to conduct good-faith law enforcement efforts can cause "considerable potential harm to the public interest." *Spiegel v. Houston*, 636 F.2d 997, 1002 (5th Cir. 1981) (reversing as overbroad a preliminary injunction that prevented law enforcement from taking personal information from adult movie theater patrons under any circumstance). The district court's grant of a preliminary injunction preventing the implementation of the Executive Action will have just that effect, as it is likely to hinder the ability of local law enforcement to gain the trust and cooperation of many members of immigrant communities in reporting and investigating crimes.

It is beyond question that law enforcement officers and representatives of local government require the trust, support, and cooperation of their communities to be effective. To further the police-community bond, local law enforcement agencies have increasingly turned to "community policing," an approach to policing where officers engage the community as partners in the effort to reduce crime.⁵ However, as local leaders are keenly aware, undocumented immigrants

⁵ Anita Khashu, Police Foundation, *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties* vii, 24 (April 2009), available at <http://www.policefoundation.org/content/role-of-local-police>; see also Robert Wasserman, U.S. Department of Justice, Office of Community Oriented Policing Services, *Guidance for Building Communities of Trust* (2010), available at http://nsi.ncirc.gov/documents/e071021293_BuildingCommTrust_v2-August%2016.pdf (emphasizing the importance for communities and law enforcement to build and maintain trusting relationships to prevent acts of crime and terrorism).

often fear interactions with law enforcement and government officials because of concerns that government representatives will inquire about their immigration status or the status of a family member or friend.⁶ Any delay in the implementation of the Executive Action directly harms the ability of local law enforcement to protect the community because such delay maintains a major barrier – fear of deportation – preventing undocumented immigrants from contacting and working with police.

Trust in law enforcement among immigrant communities is particularly important when immigrants are victims or witnesses of crimes. The Major Cities Chiefs Association, a professional association of chiefs and sheriffs from the country's largest cities, has powerfully expressed the vital need to encourage immigrants' cooperation with law enforcement efforts:

Assistance and cooperation from immigrant communities is especially important when an immigrant, whether documented or undocumented, is the victim of or witness to a crime. These persons must be encouraged to file reports and come forward with information. Their cooperation is needed to prevent and solve crimes and

⁶ Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement* i-ii, 5-6 (May 2013), available at http://www.academia.edu/4738588/Insecure_Communities_Latino_Perceptions_of_Police_Involvement_in_Immigration_Enforcement (presenting findings from survey of approximately 2,000 Latinos in Chicago, Houston, Los Angeles, and Phoenix and their metropolitan areas that indicate heightening of fears among Latinos of local law enforcement and impact on crime reporting by immigrants and U.S.-born Latinos).

maintain public order, safety, and security in the whole community.⁷

Studies have shown that a large percentage of undocumented immigrants avoid law enforcement out of fear that contact with police could lead to deportation. For instance, a 2013 survey of more than 2,000 Latinos living in Chicago, Houston, Los Angeles, and Phoenix—cities with large immigrant populations—found that among undocumented immigrants, 70 percent were less likely to contact police officers if they were victims of a crime for fear police would ask about the immigrant’s immigration status, and 67 percent were less likely to voluntarily offer information about crimes or report a crime to police officers due to the same concerns.⁸

All residents of *amici*’s cities and counties are harmed each time that a person fails to report a crime or is in fear of working with police officers investigating a crime. Unfortunately, immigrants are particularly susceptible as victims. Criminals know that many immigrants are reluctant to report crimes out of a concern that police officers will question them about their immigration status

⁷ Major Cities Chiefs Immigration Committee, *Recommendations: For Enforcement of Immigration Laws by Local Police Agencies* 5 (June 2006), available at http://www.houstontx.gov/police/pdfs/mcc_position.pdf (noting also that “[l]ocal police contacts in immigrant communities are important as well in the area of intelligence gathering to prevent future terroristic attacks and strengthen homeland security”).

⁸ Theodore, *supra* note 6, at 5-6.

or the immigration status of a friend or family member.⁹ The concern that interactions with police will lead to the identification and deportation of a family member affects a large number of immigrants: it is estimated that 85 percent of immigrants are part of families where some members are undocumented.¹⁰

When perpetrators of crime remain free, the victim of the crime remains vulnerable and afraid of further harm, and criminals are able to target other innocent and unsuspecting victims.¹¹ This cycle of crime, victimization, and fear of cooperation with police harms all of *amici*'s constituents. And once suffered, these harms cannot be reversed: each victim who is afraid to report a crime or work with police may be preventing the arrest and prosecution of a violent criminal, who is then free and enabled to commit further crimes.

While the Executive Action will not eliminate completely the concerns that many immigrants express in cooperating with law enforcement, by allowing a larger number of otherwise law-abiding immigrants to formalize their deferred status, the Executive Action will increase trust and reduce trepidation of engaging

⁹ Matthew Lysakowski, *et al.*, U.S. Dep't of Justice, *Policing in New Immigrant Communities* 3 (June 2009), available at <http://vera.org/sites/default/files/resources/downloads/e060924209-NewImmigrantCommunities.pdf>.

¹⁰ Khashu, *supra* note 5, at vii, 24.

¹¹ See Amy Braunschweiger, Human Rights Watch, *Nashville Immigrants Too Scared to Call the Police* (May 19, 2014), available at <http://www.hrw.org/news/2014/05/19/nashville-immigrants-too-scared-call-police> (describing experience of a Nashville immigrant mother's fear of calling police after her daughter was assaulted).

with law enforcement. The Executive Action is expected to make up to 4 million people eligible for deferred action and a corresponding formalization of their ability to stay in the United States on a temporary basis.¹² To qualify for deferred action, immigrants will have to come forward and interact with government officials in ways that they may have been hesitant to do previously. For instance, immigrants applying for deferred action and work authorization under the Executive Action would have to register, submit biometric data, pass background checks, and pay fees, among other requirements.¹³

By allowing a larger number of immigrants to formalize their deferred status, obtain work authorization, and experience that interactions with government are not events to be feared, the Executive Action will increase trust and eliminate barriers between law enforcement and members of immigrant communities, some of whom have lived in their communities for many years and would be valuable resources to law enforcement. A preliminary injunction directly and immediately harms the interest of *amici* and their constituents because it prevents the

¹² Press Release, Migration Policy Institute, As Many as 3.7 Million Unauthorized Immigrants Could Get Relief from Deportation under Anticipated New Deferred Action Program (Nov. 19, 2014), *available at* <http://migrationpolicy.org/news/mpi-many-37-million-unauthorized-immigrants-could-get-relief-deportation-under-anticipated-new> (estimating 3.7 million DAPA-eligible immigrants and 290,000 additional DACA-eligible immigrants under the expansion of the program).

¹³ *Executive Actions on Immigration*, U.S. Citizenship and Immigration Services, <http://www.uscis.gov/immigrationaction> (last visited Mar. __, 2015).

implementation of an important immigration enforcement policy that would lead to improved public safety for the entire community.

B. The Executive Action Will Stimulate Economic Growth in Cities and Counties Nationwide

The preliminary injunction entered below will also forestall substantial economic benefits that the Executive Action will yield for communities and neighborhoods across the country. Although the district court considered the purported economic harm to Texas that would result from processing additional driver's license applications while this action was pending, that purported harm is dwarfed by the significant economic benefits that the Executive Action's implementation will produce—benefits that would accrue day by day. The government leaders and cities represented in this brief have seen first-hand that their cities and counties receive a significant economic boost from the presence of immigrants in the work force. By allowing a greater number of qualifying undocumented workers to obtain authorization to work, as the Executive Action is expected to do, the Executive Action furthers the economic interest of *amici* and the public.

As part of its consideration of the public interest prong of the preliminary injunction standard, the district court should have accounted for how the Executive Action affects the public's economic interests. *See, e.g., Amoco Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 545-46 (1987) (rejecting balancing test that elevated

environmental subsistence concerns over public's interest in development of energy resources); *Productos Carnic, S.A. v. Central Am. Beef & Seafood Trading Co.*, 621 F.2d 683, 687 (5th Cir. 1980) (noting that public interest favors economic efficiency); *Springer v. United States Marshal*, 137 F. App'x. 657, 658 (5th Cir. 2005) (noting that appellants' request for an injunction barring federal funding for a local detention center "is completely at odds with the public interest, inasmuch as it would create serious economic problems for [the local county]").

Cities have long benefitted economically from growth in their immigrant populations. In New York City, for instance, following lean economic years in the 1970s and a decline in population, the city's focus on building up its service industries attracted an influx of immigrants, whose "relative youth and economic activity" ushered in an "era of renewal and growth."¹⁴ Similarly, in Los Angeles County, the "wave of new foreign-born residents" moving to the area between 1970 and 2010 is credited with helping the county maintain its status as the largest major manufacturing center in the United States.¹⁵

¹⁴ N.Y. City Dep't of City Planning, *The Newest New Yorkers: Characteristics of the City's Newest Foreign-born Population* 1 (2013), available at <http://www.nyc.gov/html/dcp/pdf/census/nnny2013/chapter1.pdf>.

¹⁵ Jacob L. Vigdor, *Immigration and the Revival of American Cities* 8 (Sept. 2013), available at <http://www.renewoureconomy.org/wp-content/uploads/2013/09/revival-of-american-cities.pdf> (concluding that when 1,000 immigrants move to an area 46 manufacturing jobs are created or preserved, thus the influx of 2.7 million immigrants to Los Angeles County between 1970 and 2010 helps explain why Los Angeles lost relatively fewer manufacturing jobs during that time,

In addition to New York City and Los Angeles County, many other localities have recognized that immigrants—including undocumented immigrants—are a source of needed vitality, including economic vitality, as is evident from the creation of dedicated city-funded offices supporting immigrants' well-being, regardless of the immigrants' federal immigration status.¹⁶ Further, in some cities

as compared to Chicago, the second-largest manufacturing center in the United States, which added only 600,000 immigrants from 1970 to 2010).

¹⁶ Boston, Baltimore, Chicago, New York City, Philadelphia, Houston, Los Angeles, San Francisco, and Seattle have offices and staff dedicated to supporting immigrants. See City of Baltimore, Mayor's Office of Immigrant and Multicultural Affairs, <http://mayor.baltimorecity.gov/node/2229> (last visited Jan. 22, 2015); City of Boston, Mayor's Office of New Bostonians, <http://www.cityofboston.gov/newbostonians/> (last visited Jan. 22, 2015); City of Chicago, Office of New Americans, http://www.cityofchicago.org/city/en/depts/mayor/provdrs/office_of_new_americans.html (last visited Jan. 22, 2015); City of Houston, Office of International Communities, <http://www.houstontx.gov/oic> (last visited Jan. 22, 2015); Office of Los Angeles Mayor Eric Garcetti, Mayor's Office of Immigrant Affairs, <http://www.lamayor.org/immigrants> (last visited Jan. 22, 2015); New York City Mayor's Office of Immigrant Affairs, <http://www.nyc.gov/html/imm/html/home/home.shtml> (last visited Jan. 22, 2015); City of Philadelphia, Immigrant and Multicultural Affairs <http://www.phila.gov/ima/Pages/default.aspx> (last visited Jan. 22, 2015); City of San Francisco, Office of Civic Engagement & Immigrant Affairs, <http://sfgsa.org/index.aspx?page=957> (last visited Jan. 22, 2015); City of Seattle, Office of Immigrant and Refugee Affairs, <http://www.seattle.gov/office-of-immigrant-and-refugee-affairs> (last visited Jan. 22, 2014).

Other cities and counties including Atlanta, Austin, Charlotte, Pittsburgh, Portland, St. Louis, Allegheny County, Pennsylvania, and Montgomery County, Maryland, also have launched immigrant-integration initiatives. See City of Atlanta, *Mayor Kasim Reed and City of Atlanta Announce Results of Welcoming America Working Group*, Sept. 17, 2014, <http://www.atlantaga.gov/index.aspx?recordid=3041&page=672>; City of Austin, *Austin Promotes Immigrant-Friendly, Welcoming Environment*, June 27, 2013, <http://austintexas.gov/news/austin-promotes-immigrant-friendly-welcoming-environment>; City of Charlotte, Immigrant Integration Task Force, <http://charmeck.org/city/charlotte/cic/getinvolved/pages/immigrant-integration-task-force.aspx> (last visited Jan. 22, 2015); Office of Pittsburgh Mayor William Peduto, *Mayor William Peduto launches Welcoming Pittsburgh Initiative*, May 28, 2014, <http://pittsburghpa.gov/mayor/release?id=3112>; City of Portland, Diversity and Civic Leadership Program, <http://www.portlandoregon.gov/oni/45147> (last visited Jan. 22, 2015); *St. Louis Mosaic*

and counties that have experienced recent economic struggles, organizations have launched immigrant-integration initiatives “as a means to produce jobs and regional economic growth,”¹⁷ and government officials have lauded how immigrant populations have “renovated and revitalized whole neighborhoods.”¹⁸

A major reason that cities and counties have taken these steps to support the integration of immigrants in their communities is the proven boost that results for local economies and local labor markets. For instance, a 2012 report by the Partnership for a New American Economy estimated that immigrants started 28 percent of all new businesses in the country in 2011, and that immigrant-owned businesses generate more than \$775 billion in revenue, \$125 billion in payroll, and \$100 billion in income, as well as employing one out of every 10 workers in the

Project, <http://www.stlmosaicproject.org/> (last visited Jan. 22, 2015) (city-funded regional initiative launched in 2012 to welcome immigrants to St. Louis); Allegheny County, *A Welcoming America County*, <http://www.alleghenycounty.us/executive/WelcomingAmerica.aspx> (last visited Mar. 19, 2015); Montgomery County Charles W. Gilchrist Center for Cultural Diversity, <http://www.montgomerycountymd.gov/gilchrist/index.html> (last visited Mar. 19, 2015).

¹⁷ See Global Detroit, About Us, <http://www.globaldetroit.com/about> (describing Global Detroit as a non-profit that focuses on revitalizing “Michigan’s economy by pursuing strategies that strengthen Detroit’s connections to the world to make the region more attractive and welcoming to immigrants, internationals, and foreign trade and investment as a means to produce jobs and regional economic growth”) (last visited Mar. ____, 2015).

¹⁸ Susan Hartman, *A New Life for Refugees, and the City They Adopted*, N.Y. Times, Aug. 10, 2014, http://www.nytimes.com/2014/08/11/nyregion/a-new-life-for-refugees-and-the-city-they-adopted.html?_r=0 (quoting Oneida county executive Anthony J. Picente Jr.); cf. Julia Preston, *Ailing Midwestern Cities Extend a Welcoming Hand to Immigrants*, N.Y. Times, Oct. 6, 2013, at <http://www.nytimes.com/2013/10/07/us/ailing-cities-extend-hand-to-immigrants.html> (noting welcoming attitudes among local officials in Dayton towards undocumented immigrants).

United States.¹⁹ Immigrants have a particularly significant footprint when it comes to the creation and management of businesses that make up the “backbone” of local communities; a January 2015 report showed that in 2013, immigrants in the United States made up 61 percent of all gas station owners, 58 percent of dry cleaners owners, 53 percent of grocery store owners, 45 percent of nail salon owners, 43 percent of liquor store owners, 38 percent of restaurant owners, and 32 percent of both jewelry and clothing store owners.²⁰ And research shows that the employment opportunities created by immigrant-owned businesses and immigration in general have a long-term beneficial effect on all U.S. workers, including U.S.-born wage earners.²¹

While immigration in general provides long-term economic benefits for cities, counties, and wage-earners, the implementation of the Executive Action also

¹⁹ Robert W. Fairlie, Partnership for a New American Economy, *Open for Business: How Immigrants are Driving Small Business Creation in the United States* 3 (August 2012), available at <http://www.renewoureconomy.org/sites/all/themes/pnae/openforbusiness.pdf>.

²⁰ Americas Society/Council of the Americas & Fiscal Policy Institute, *Bringing Vitality to Main Street: How Immigrant Small Businesses Help Local Economies Grow* 2 (January 2015), available at <http://fiscalpolicy.org/wp-content/uploads/2015/01/Bringing-Vitality-to-Main-Street.pdf>.

²¹ Heidi Shierholz, Econ. Policy Inst. Briefing Paper No. 255, *Immigration and Wages: Methodological Advancements Confirm Modest Gains for Native Workers* 19-20 (Feb. 4, 2010), available at <http://www.epi.org/files/page/-/bp255/bp255.pdf> (finding that between 1994 and 2007, immigration caused a 0.4 percent increase in wages for U.S.-born workers, relative to foreign-born workers); see also Gianmarco I.P. Ottaviano & Giovanni Peri, Nat’l Bureau of Econ. Research, *Rethinking the Effects of Immigration on Wages* 4 (2006, revised 2008), available at <http://www.nber.org/papers/w12497> (finding that U.S.-born workers’ wages increased 0.7 percent due to immigration between 1990 to 2004).

would create an immediate economic spark for those groups. On a national level, one study estimates that if 3.8 million people obtained work permits through the Executive Action, it would lead to a labor income increase of \$7.1 billion, which will result in more than \$2.6 billion in new tax revenue and the creation of more than 167,000 new jobs.²² Another study concludes that if 4.7 million people obtained work permits through the Executive Action, it would result in increased payroll tax revenues of \$2.87 billion in the first year and \$21.24 billion in the first five years of the program.²³ Moreover, providing work authorization to individuals covered by the Executive Action is certain to improve worker protections, minimizing wage theft and the loss in tax revenue from the wage theft.²⁴

The economic benefit of the Executive Action can be quantified on a local level as well. Taking New York City as an example, if, as some studies have found, an undocumented worker's wages increase by seven percent when he or she

²² Raul Hinojosa-Ojeda and Maksim Wynn, UCLA North American Integration and Development Center, *From the Shadows to the Mainstream: Estimating the Economic Impact of Presidential Administrative Action and Comprehensive Immigration Reform* 32 (Nov. 21, 2014), available at http://naid.ucla.edu/uploads/4/2/1/9/4219226/ucla_naid_center_report_-_estimating_the_economic_impact_of_presidential_administrative_action_and_comprehensive_immigration_reform.pdf.

²³ Patrick Oakford, Center for American Progress, *Administrative Action on Immigration Reform: The Fiscal Benefits of Temporary Work Permits* 9 (2014), available at <http://cdn.americanprogress.org/wp-content/uploads/2014/09/OakfordAdminRelief.pdf>.

²⁴ *Id.* at 5 (“The interaction between our broken immigration system and employment and labor laws have made undocumented workers more susceptible to exploitation in the workplace, leading them to earn lower wages than they otherwise could.”).

obtains authorization to work,²⁵ then an undocumented worker in New York City currently making \$3,200 a month—the average monthly wage for undocumented workers in New York state²⁶—is missing out on an average of \$224 every month in marginal wage gains that he or she would earn if the Executive Action were in place. If even only 100,000 undocumented workers in New York City who obtained temporary work authorization were taxed on their additional \$224 in earnings at 7.1 percent—the estimated effective tax rate for undocumented workers in New York state²⁷—then the state and the city would reap more than \$1.5 million *monthly* in marginal state and local tax revenue.²⁸ Certainly, a delay in the Executive Action’s implementation directly harms local economies and residents

²⁵ Raul Hinojosa-Ojeda and Maksim Wynn, *supra* n. ___, at 12 (table comparing income impact by legal status); *see also* Silva Mathema, Center for American Progress, *The High Costs of Delaying Executive Action on Immigration* (March 13, 2015), available at <https://www.americanprogress.org/issues/immigration/news/2015/03/13/108768/the-high-costs-of-delaying-executive-action-on-immigration> (estimating that work authorization increases earnings of an undocumented worker by nearly 8.5 percent).

²⁶ Institute on Taxation and Economic Policy, *Undocumented Immigrants’ State and Local Tax Contributions* 9 (July 2013), available at <http://www.itep.org/pdf/undocumentedtaxes.pdf> (estimating \$38,400 in annual income for average undocumented worker in New York state).

²⁷ *Id.* at 7.

²⁸ The number of individuals in New York City likely to be eligible for temporary work authorization under the Executive Action is likely to be far greater than 100,000 and is perhaps as high as 183,000. *See* Migration Policy Institute, *Unauthorized Immigrant Population Profiles: County Profiles* (2015), available at <http://www.migrationpolicy.org/programs/us-immigration-policy-program-data-hub/unauthorized-immigrant-population-profiles> (follow link to “County-Level Estimates on DACA & DAPA Populations,” estimating population eligible for expanded DACA and DAPA in New York City’s five counties—New York, Kings, Queens, the Bronx, and Richmond) (last visited Mar. ___, 2015).

by reducing the potential tax revenues for cities and counties, reducing the subsequent public spending and benefits that would come from that tax revenue, and limiting the increased economic activity that would result from additional income among immigrant households.

Past experience also suggests that the Executive Action will rapidly improve the economic outlook for many of the currently undocumented workers living in *amici*'s cities and counties. Studies tracking how the 2012 Deferred Action for Childhood Arrivals Program ("2012 DACA") affected young adults show marked progress for those individuals in several economic indicators. For instance, a survey of nearly 2,400 individuals who received 2012 DACA showed that within two years, almost 60 percent of beneficiaries obtained a new job, and 45 percent increased their salaries.²⁹ Further, 49 percent of those surveyed opened their first bank accounts within two years after receiving 2012 DACA, and 33 percent obtained their first credit card.³⁰

The Executive Action will similarly benefit a broad group of immigrants who already have significant ties to *amici*'s cities and counties and who already contribute economically in various ways. By formalizing the work status of

²⁹ Roberto Gonzales & Angie M. Bautista-Chavez, American Immigration Council, *Two Years and Counting: Assessing the Growing Power of DACA* 3 (June 2014), available at <http://www.immigrationpolicy.org/special-reports/two-years-and-counting-assessing-growing-power-daca>.

³⁰ *Id.*

hundreds of thousands of wage-earners, the Executive Action will increase wage levels and tax revenues in the *amici*'s jurisdictions. Preventing the immediate implementation of the Executive Action will have the opposite effect, depriving local governments and residents of these proven economic benefits. Such a result would be contrary to the public interest.

C. The Executive Action Will Promote Family Unity and Facilitate the Integration of Immigrant Residents in Cities Nationwide

The profound importance of family unity is codified in the nation's immigration laws³¹ and recognized as a protected liberty interest under the U.S. Constitution. *See, e.g., Moore v. City of East Cleveland*, 431 U.S. 494, 503 (1977) (“[O]ur decisions establish that the Constitution protects the sanctity of the family precisely because it is deeply rooted in the Nation’s history and tradition.”); *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (noting that “[t]he Court has frequently emphasized the importance of the family”). The *amici* mayors, county executives, and local governments have a strong interest in federal action that promotes family unity because a rupture in the family unit results in many potentially harmful outcomes that often fall to local governments to address, such

³¹ *See, e.g.,* 8 U.S.C. § 1254a(c)(2)(A)(ii) (allowing the Attorney General to find certain individuals eligible for Temporary Protected Status “for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest”); 8 U.S.C. § 1182(d)(11) (providing Attorney General with discretionary waiver of exclusion in certain circumstances, including to “assure family unity”); *Holder v. Martinez Gutierrez*, ___ U.S. ___, 132 S. Ct. 2011, 2019 (2012) (noting that “promoting family unity” is one of the goals that “underlie or inform many provisions of immigration law”).

as reduced household income, increased reliance on public benefits and services, increased occurrences of negative health consequences for children, and a greater likelihood of educational problems for children. Further, *amici* have a strong interest in the full integration of all residents, including immigrants, into the fabric of the community. The district court wrongly failed to consider any of these important public interests.

Delayed implementation of the Executive Action forces immigrant families in mixed-status households—households where some members are documented or U.S. citizens and some are undocumented—to live under an ongoing fear of deportation and separation from their loved ones.³² The plain reality is that families are routinely torn apart through the enforcement of the immigration laws. For instance, in New York City from 2005 to 2010, 87 percent of the parents of U.S. citizen children that federal immigration authorities apprehended were

³² An estimated 5.5 million U.S. citizen children live with an undocumented parent who is eligible for DAPA. See Manuel Pastor, *et al.*, University of Southern California Dornsife Center for the Study of Immigrant Integration, *The Kids Aren't Alright – But They Could Be: The Impact of Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) on Children* (March 2015), available at http://dornsife.usc.edu/assets/sites/731/docs/DAPA_Impact_on_Children_CSII_Brief_Final_01.pdf; see also Paul Taylor, *et al.*, Pew Research Center, *Unauthorized immigrants: Length of Residency, Patterns of Parenthood* (Dec. 1, 2011), available at <http://www.pewhispanic.org/2011/12/01/unauthorized-immigrants-length-of-residency-patterns-of-parenthood> (estimating that 9 million people live in mixed-status families that include at least one undocumented adult and one U.S.-born child).

deported,³³ and nationally 46,000 parents of citizen children were deported in the first six months of 2011 alone.³⁴

The broader community and local government, as well as immigrant families themselves, are harmed when deportation ruptures family unity. From a community and government perspective, the splitting of families through deportation results in direct financial costs. Children in single-parent households are more than four times as likely to live in poverty than are children with married parents,³⁵ and households that lose the family breadwinner due to immigration enforcement experience “steep declines” in income, housing instability, and food insufficiency, resulting in increased reliance on public benefits.³⁶ Deportations that split up families also cause increased stress upon already busy public service

³³ N.Y. Univ. School of Law Immigrant Rights Clinic, *Insecure Communities, Devastated Families: New Data on Immigrant Detention and Deportation Practices in New York City* 18 (2012), available at <http://immigrantdefenseproject.org/wp-content/uploads/2012/07/NYC-FOIA-Report-2012-FINAL.pdf>.

³⁴ Seth Freed Wessler, *U.S. Deports 46K Parents with Citizen Kids in Just Six Months*, Colorlines, Nov. 3, 2011, available at http://colorlines.com/archives/2011/11/shocking_data_on_parents_deported_with_citizen_children.html.

³⁵ Joanna Dreby, Center for American Progress, *How Today's Immigration Enforcement Policies Impact Children, Families, and Communities* 9 (August 2012), available at <http://cdn.americanprogress.org/wp-content/uploads/2012/08/DrebyImmigrationFamiliesFINAL.pdf>.

³⁶ Ajay Chaudry, et al., Urban Institute, *Facing Our Future: Children in the Aftermath of Immigration Enforcement* viii-ix (February 2010), available at http://www.urban.org/uploadedpdf/412020_FacingOurFuture_final.pdf at viii-ix (examining consequences of parental arrest, detention, and deportation on 190 children in 85 families in six locations in the U.S.).

systems, such as the foster care system. One study estimates that in 2011 there were 5,100 children in foster care nationwide whose parents had been either detained or deported,³⁷ placing increased strain upon local governments' foster care systems and on the child whose parents could no longer provide care and comfort.

From a family perspective, research has shown that children left behind after the deportation of a family member may experience a number of significant health setbacks and have a greater likelihood of struggling in school and even dropping out completely. For instance, interviews with a sample of children who had experienced separation from a parent within the last six months due to immigration detention found that in addition to approximately two-thirds of the children having trouble eating and sleeping, more than 40 percent were considered "anxious" or "withdrawn" and only slightly fewer were "angry or aggressive."³⁸ The same

³⁷ Seth Freed Wessler, Applied Research Center, *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System* 6 (November 2011), available at http://www.atlanticphilanthropies.org/sites/default/files/uploads/ARC_Report_Shattered_Families_FULL_REPORT_Nov2011Release.pdf.

³⁸ Chaudry, *et al.*, *supra* n. ___, at 41-42; *see also id.* at 41-53 (detailing short-term and long-term behavior changes among children who experienced separation from parents due to immigration enforcement); Kalina Brabeck, *et al.*, Report for the Inter-American Human Rights Court, *The Psychosocial Impact of Detention and Deportation on U.S. Migrant Children and Families* 5 (August 2013), available at <http://www.bc.edu/content/dam/files/centers/humanrights/doc/IACHR%20Report%20on%20Psychosocial%20Impact%20of%20Detention%20%20Deportation-FINAL%208-16-13.pdf> ("The physical separation between a parent and child, particularly when unexpected as in the case of deportation, disrupts the essential secure base, risking internalizing symptoms (depression,

study also reported instances where non-arrested parents were afraid to return their children to school after the arrest of one parent on immigration-related charges, while older students occasionally dropped out of school entirely to assist non-arrested parents or siblings.³⁹ The *amici* local governments have a significant public health interest in ensuring that all children in their communities – children of undocumented immigrants included – are healthy, educated, and able to participate in community life.

The implementation of the Executive Action will promote family well-being and children's health by offering stability and reassurance to the millions of children whose parents can apply for temporary relief from deportation through DAPA. This is a key benefit because studies show that children's health is negatively impacted simply by the *threat* that a close family member will be detained or deported. As the nation's immigration issues and policies are frequently discussed in the media and in immigrant communities, immigrant children and adults develop understandable fears about visiting public spaces and engaging with government and law enforcement officials.⁴⁰ Children of immigrants also begin to associate all immigrants with illegality and link their own

anxiety), externalizing behaviors (withdrawal, aggression), and social and cognitive difficulties.”).

³⁹ Chaudry, *et al.*, *supra* n. ___, at 49-50.

⁴⁰ Dreby, *supra* n. ___, at 21.

immigrant heritage with feelings of shame.⁴¹ The Executive Action will help address these ongoing negative impacts on family well-being and children's health; delay in implementation obstructs these much-needed social benefits to the detriment of cities and counties.⁴²

Amici have a strong interest in ensuring that all members of the community feel comfortable getting involved in local issues and community affairs, whether that means volunteering in local schools, participating in community board meetings, or simply interacting with their local governments. The Executive Action will increase civic engagement because, for those that qualify, it will remove the threat that interactions with school officials, law enforcement, and other local government officials will result in arrest or deportation.

Allowing the federal government to implement the Executive Action will help to prevent the splitting of families due to deportation and directly encourage greater immigrant participation in community life while this action is pending. For

⁴¹ *Id.* at 27-28; see also Max Ehrenfreund, *How having an undocumented parent hurts American children*, Wash. Post, March 4, 2015, <http://www.washingtonpost.com/blogs/wonkblog/wp/2015/03/04/how-having-an-undocumented-parent-hurts-american-children> (reporting on study of Los Angeles households that surveyed 2,535 children and determined that even young children of undocumented parents are aware of the risks of family separation and feel shame about their family's immigration status).

⁴² See Joanna Dreby, Center for American Progress, *Executive Action on Immigration will Help Children and Families* (March 3, 2015), available at <https://www.americanprogress.org/issues/immigration/news/2015/03/03/107769/executive-action-on-immigration-will-help-children-and-families/?elqTrackId=1728770977694509a243555a81ef9d2e&elqaid=24822&elqat=1> (emphasizing the toll that immigration system has on American families and the potential for improvement due to the Executive Action).

this reason, too, the preliminary injunction blocking implementation of the Executive Action is contrary to the public interest.

CONCLUSION

For the reasons set forth in this Brief, as well as those set forth by appellants and their other supporting *amici*, the district court's grant of a preliminary injunction should be reversed.

Respectfully submitted,

March __, 2015

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CITIES/COUNTIES AMICUS MEMO—APPEAL TO FIFTH CIRCUIT ON
PRELIMINARY INJUNCTION RULING

The New York City Law Department is preparing an amicus brief, with lead amici to be the Mayors of New York and Los Angeles, for filing in the Fifth Circuit Court of Appeals in support of the defendants in the *Texas v. United States* case, further described below. Please review this memorandum and advise the individuals listed below if your mayor, city, county executive, or county wishes to join the brief once it is circulated.

PART I -- ACTION ITEMS

1. Request for Information

If you have any information regarding the harm that your city or county will experience as a result of a delay in implementation of the federal government's executive action on immigration, please provide it to the individuals listed below.

2. To join the amicus brief or to ask any questions, contact the following individuals

Jeremy Shweder
Senior Counsel, New York City Law Department
(212) 356-2611
jshweder@law.nyc.gov

Please cc:

Sonia Lin
General Counsel, Mayor's Office of Immigrant Affairs
(212) 788-2831
slin@cityhall.nyc.gov

To join the amicus brief, please have a legal or otherwise authorized representative of your mayor, city, county executive, or county send an email to the individuals listed above containing the attorney's signature block to be included in the brief.

Sample signature block:

ZACHARY W. CARTER
Corporation Counsel
100 Church Street
New York, New York 10007
(212) 356-2500
*Attorney for Bill de Blasio,
Mayor of New York*

3. Timing

We will determine filing deadlines, circulation deadlines, and the deadline to join the brief once the Fifth Circuit sets a briefing schedule.

PART II -- BASIC CASE INFORMATION

Case in which amicus brief will be submitted

- (a) *Texas v. United States*, appeal to the United States Court of Appeals for the Fifth Circuit from the grant of a preliminary injunction in S.D. Texas case No. 1:14-cv-254 (amicus will support defendants, the United States and several officials of the Department of Homeland Security).

In November 2014, the Secretary of the Department of Homeland Security (DHS) issued a series of memos about the agency's immigration enforcement priorities. As part of this, DHS issued a guidance memorandum calling for the case-by-case exercise of deferred action for low-priority immigrants, specifically those who came to the United States before 2010 and entered as children, as well as those who came to the United States before 2010 and are the parents of U.S. citizens or lawful permanent residents.

In December 2014, Texas, twenty-one other states, four governors, and the Attorney General of Michigan brought suit, contending that the DHS action is unlawful federal executive action. The district court granted plaintiffs a preliminary injunction on February 16, 2015. The defendants filed a notice of appeal to the Fifth Circuit on February 23, 2015 and also moved to stay the district court's preliminary injunction order. The Fifth Circuit has not issued a briefing schedule for the defendants' appeal, but we anticipate that the appeal will be expedited.

(b) Interests of the cities/counties and legal arguments to be made by the amicus brief

The amicus brief plans to focus on the fourth element of the preliminary injunction standard: whether the injunction will disserve the public interest. The district court purported to balance the public interest and found that the interest that "weighs the heaviest" was ensuring that actions of the executive branch comply with the law. Although the cities filed an amicus brief below explaining why granting a preliminary injunction would be strongly contrary to the

public interest, the district court failed to consider the cities' asserted interests and gave only cursory consideration of the public's interest in general.

In our amicus to the Fifth Circuit, we plan to demonstrate that (1) the district court failed to follow the legal standards in reviewing the public interest element because it did not take into account the impact of a preliminary injunction on a large category of the public with significant interest in the outcome (the cities and counties and those people living in cities and counties like those represented by the amicus signers); and (2) the granting of a preliminary injunction in fact harms the public interest. On the second point, we plan to show that a delay in the implementation of the DHS directives works harm on the people living in cities/counties because the implementation of the directives creates significant benefits to the cities/counties, including: (a) increasing public safety by encouraging immigrant residents to trust and cooperate with law enforcement; (b) fueling economic growth through job creation and new tax revenue; and (c) facilitating the full integration of immigrants into their communities and promoting family unity.

APPENDIX

For reference, the following mayors signed on to the amicus brief filed with the district court in support of defendants. Jurisdictions that had previously joined the district court brief should notify Jeremy Shweder and Sonia Lin if they intend to sign on to the Fifth Circuit brief.

- Mayor Bill de Blasio of New York, New York
- Mayor Eric Garcetti of Los Angeles, California;
- Mayor Kasim Reed of Atlanta, Georgia;
- Mayor Stephanie Rawlings-Blake of Baltimore, Maryland;
- Mayor Byron W. Brown of Buffalo, New York;
- Mayor James DiOSSa of Central Falls, Rhode Island;
- Mayor Rahm Emanuel of Chicago, Illinois;
- Mayor Steven Benjamin of Columbia, South Carolina;
- Mayor Nan Whaley of Dayton, Ohio;
- Mayor Michael B. Hancock of Denver, Colorado;
- Mayor Muriel Bowser of Washington, D.C.;
- Mayor Riley Rogers of Dolton, Illinois;
- Mayor Pedro Segarra of Hartford, Connecticut;
- Mayor Annise D. Parker of Houston, Texas;
- Mayor Steven M. Fulop of Jersey City, New Jersey;
- Mayor Paul Soglin of Madison, Wisconsin;
- Mayor Betsy Hodges of Minneapolis, Minnesota;
- Mayor Ras Baraka of Newark, New Jersey;
- Mayor Libby Schaaf of Oakland, California;
- Mayor Michael A. Nutter of Philadelphia, Pennsylvania;
- Mayor Bill Peduto of Pittsburgh, Pennsylvania;
- Mayor Charles Hales, on behalf of the City Council of the City of Portland, Oregon;
- Mayor Jorge O. Elorza of Providence, Rhode Island;
- Mayor John Dickert of Racine, Wisconsin;

- Mayor Tom Butt of Richmond, California;
- Mayor Lovely Warren of Rochester, New York;
- Mayor Ralph Becker of Salt Lake City, Utah;
- Mayor Edwin Lee of San Francisco, California;
- Mayor Gary R. McCarthy of Schenectady, New York;
- Mayor Edward B. Murray of Seattle, Washington;
- Mayor Francis G. Slay of St. Louis, Missouri;
- Mayor Marilyn Strickland of Tacoma, Washington;
- Mayor Mike Spano of Yonkers, New York.
- *Amici* also included the United States Conference of Mayors and the National League of Cities.

The following law enforcement leaders joined an amicus brief filed with the district court in support of defendants:

- Major Cities Chiefs Association
- Police Executive Research Forum
- Chief Art Acevedo, City of Austin, Texas, Police Department
- Chief Charlie Beck, Los Angeles, California, Police Department
- Chief Richard S. Biehl, Dayton, Ohio, Police Department
- Chief Chris Burbank, Salt Lake City, Utah, Police Department
- Sheriff Mark C. Curran Jr., Lake County, Illinois, Sheriff's Office
- Sheriff Tony Estrada, Santa Cruz County, Arizona, Sheriff's Office
- Commissioner William B. Evans, Boston, Massachusetts, Police Department
- Sheriff Adrian Garcia, Harris County, Texas, Sheriff's Office
- Sheriff Marlin Gusman, New Orleans Parish, Louisiana, Sheriff's Office
- Chief James Hawkins, Garden City, Kansas, Police Department
- Chief Dwight Henninger, Vail, Colorado, Police Department
- Chief Michael C. Koval, Madison, Wisconsin, Police Department
- Chief Jose L. Lopez Sr., Durham, North Carolina, Police Department
- Sheriff Leon Lott, Richland County, South Carolina, Sheriff's Department
- Sheriff Bill McCarthy, Polk County, Iowa, Sheriff's Office
- Chief Roy W. Minter, Jr., Peoria, Arizona, Police Department
- Lieutenant Andy Norris, Tuscaloosa County, Alabama, Sheriff's Office
- Chief Kathleen O'Toole, Seattle, Washington, Police Department
- Commissioner Charles Ramsey, Philadelphia, Pennsylvania, Police Department
- Chief Greg Suhr, San Francisco, California, Police Department
- Chief Ron Teachman, South Bend, Indiana, Police Department
- Chief Michael Tupper, Marshalltown, Iowa, Police Department
- Sheriff John Urquhart, King County, Washington, Sheriff's Office
- Sheriff Lupe Valdez, Dallas County, Texas, Sheriff's Department
- Chief Roberto Villaseñor, Tucson, Arizona, Police Department
- Chief Robert White, Denver, Colorado, Police Department
- Sheriff Richard D. Wiles, El Paso County, Texas, Sheriff's Office

The following states joined an amicus brief filed with the district court in support of defendants:

- California, Connecticut, District of Columbia, Hawaii, Illinois, Iowa, Maryland, Massachusetts, New Mexico, New York, Oregon, Vermont, Washington

The following states have joined the lawsuit as plaintiffs, either as states or through their state representatives:

- Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Kansas, Louisiana, Maine, Michigan, Mississippi, Montana, Nebraska, Nevada, North Carolina, South Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, West Virginia, Wisconsin

From: Romer, Amanda M.
To: [T.m. Franklin Cownie \(fcownie@dmgov.org\)](mailto:T.m.Franklin.Cownie@dmgov.org)
Cc: [T.M. Cownie](#)
Subject: FW: TIME SENSITIVE: CUIA Draft Amicus Brief Attached
Date: Tuesday, March 24, 2015 8:34:00 AM
Attachments: [5th Circuit Amicus Brief on Immigration Action.pdf](#)
[Cities" Amicus Supporting Immigration Executive Action.pdf](#)

From: McIntyre, Geraldine [<mailto:GMcIntyre@cityhall.nyc.gov>]
Sent: Monday, March 23, 2015 5:28 PM
To: Romer, Amanda M.
Subject: FW: TIME SENSITIVE: CUIA Draft Amicus Brief Attached
Importance: High

Hi Amanda,

Sharing with you this opportunity for Mayor Cownie to join a cities' amicus brief we are filing at the Fifth Circuit in the *Texas v. U.S.* case. The brief is attached, as well as a memo that gives some context and more details. We filed a similar brief with the district court that included 33 mayors, U.S. Conference of Mayors, and the National League of Cities.

It would be wonderful to have Mayor Cownie join the brief! Let me know if you have any Qs! Deadline is this Thursday to sign on.

Best,
Geraldine

Geraldine McIntyre, Esq.
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Direct: 202.624.5922
BB: 347.331.2962

From: Andre, Richard
Sent: Monday, March 23, 2015 2:52 PM
To: Andre, Richard
Cc: 'Shweder, Jeremy (Law)'
Subject: TIME SENSITIVE: CUIA Draft Amicus Brief Attached
Importance: High

Dear all, as promised, attached is the draft amicus brief to be filed in the Fifth Circuit Court of Appeals. Please be aware that this document may undergo minor changes between now and when it

is filed.

As a reminder, **we need all signature blocks by COB this Thursday, March 26**. We are asking that mayors, cities, county executives and counties sign onto the brief through their attorneys or through the appropriate city attorney. To join the brief, have a legal or otherwise authorized representative of your city or county send an email **ASAP** to Jeremy Shweder (copied here) and me with a signature block that follows the format below:

Zachary W. Carter
Corporation Counsel
100 Church Street
New York, NY 10007
Attorney for Bill de Blasio,
Mayor of New York

Note: For cities/counties that have already sent us their signature block for this brief, we will assume you are signing on unless you tell us otherwise. And if you signed onto the previous district court brief back in January, we still need confirmation that you'll be joining this brief as well.

Thanks all,

-Rich

From: Andre, Richard
Sent: Wednesday, March 18, 2015 4:02 PM
To: Andre, Richard
Cc: 'Shweder, Jeremy (Law)'; Lin, Sonia; Gann, Georgia
Subject: CUIA - Amicus Call Recap & Deadlines
Importance: High

Dear all, thanks for joining this afternoon's call—there's clearly a lot of interest in this effort among our cities. As we discussed, the Administration is moving aggressively in the *Texas v. US* case so that DHS can move forward with implementation of expanded DACA and DAPA. Last week, the DOJ made a request to the Fifth Circuit Court of Appeals, asking for a deadline of **Monday, March 30** to file their brief and any amicus brief—including this one—and the Court is likely to approve the scheduling request.

Cities and counties thus have a quick timeline to submit their amicus brief in support of DOJ's appeal and executive action. We are reattaching the memo we sent around yesterday, which describes the forthcoming amicus brief and gives instructions for how you can sign on. **Cities and counties that wish to sign on now should send their attorney's signature block to Jeremy Shweder (jshweder@law.nyc.gov) ASAP.**

Otherwise, New York City will circulate a draft amicus brief to everyone on **Monday, March 23**, and if you'd like to sign on, **we will need your signature block by COB on Thursday, March 26**, to leave sufficient time for formatting and filing the brief.

We will follow up with each city and county individually over the next few days. If you have any questions, feel free to contact Jeremy or me. We look forward to hearing from you all!

-Rich

Richard André | Community Integration Fellow
NYC Mayor's Office of Immigrant Affairs
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No. 15-40238

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

STATE OF TEXAS, *et al.*

Plaintiffs-Appellees,

v.

UNITED STATES OF AMERICA, *et al.*

Defendants-Appellants.

On appeal from the United States District Court
Southern District of Texas Brownsville Division
No. 1:14-cv-00254 (Andrew S. Hanen, J.)

**BRIEF FOR AMICI CURIAE THE MAYORS OF NEW YORK AND LOS
ANGELES, __ ADDITIONAL MAYORS, CITIES, COUNTY
EXECUTIVES, AND COUNTIES, THE UNITED STATES CONFERENCE
OF MAYORS, AND THE NATIONAL LEAGUE OF CITIES
IN SUPPORT OF APPELLANTS**

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(Additional counsel listed on the signature page)

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INTRODUCTION AND INTEREST OF THE AMICI CURIAE

Amici are ___ mayors, cities, county executives, and counties from across the country, including Mayor Bill de Blasio of New York, New York; Mayor Eric Garcetti of Los Angeles, California; [*MORE TO COME*]

The *amici* mayors, county executives, and local governments have a compelling interest in this appeal and in demonstrating that the district court's grant of a preliminary injunction is strongly contrary to the public interest. Local officials witness every day the contributions that immigrants make to their neighborhoods and communities, as well as the harms that result from keeping long-time residents of those neighborhoods and communities in the shadows due to questions about their immigration status. *Amici* also see and must address the harms to families and children that an ongoing threat of deportation produces. A great number of the estimated 11 million undocumented immigrants in the United States¹ have lived in *amici*'s cities and counties for a decade or more.² So, the mayors, county executives, and cities represented in this brief have a distinctive, on-the-ground perspective and understanding of how the proposals for temporary

¹ See, e.g., Jens Manuel Krogstad & Jeffrey S. Passel, Pew Research Ctr., *5 facts about illegal immigration in the U.S.* (Nov. 18, 2014), available at <http://www.pewresearch.org/fact-tank/2014/11/18/5-facts-about-illegal-immigration-in-the-u-s> (estimating 11.2 million undocumented immigrants based on 2012 data).

² Pew Research Ctr., *A Nation of Immigrants*, (Jan. 29, 2013), available at <http://www.pewhispanic.org/2013/01/29/a-nation-of-immigrants> (noting that in 2010, nearly two-thirds of undocumented adult immigrants had lived in the United States for at least a decade).

relief from deportation outlined in the Secretary of Homeland Security's November 20, 2014 Deferred Action Guidance Memorandum (*see* Attachment 3 to Appellants' Emergency Motion for Stay Pending Appeal, filed March 12, 2015) (hereinafter, the "Executive Action") will affect eligible individuals, their families, and, indeed, all residents within *amici*'s jurisdictions.

Amici entirely support the Executive Action, which would allow eligible undocumented children and adults to apply for expanded "Deferred Action for Childhood Arrivals" ("expanded DACA") and eligible undocumented parents of U.S. citizen and lawful permanent resident children to apply for "Deferred Action for Parental Accountability" ("DAPA"). While *amici* recognize that others hold a different view about the Executive Action, it cannot be disputed that undocumented immigrants live in, work in, and form part of local communities and neighborhoods across this country—and have done so for some time. The Executive Action recognizes a reality that *amici* have long known: communities are safer, economically stronger, and better places to live when undocumented immigrants who have substantial and longstanding ties to their communities and who pose no threat to public safety are able to come out of the shadows, participate more fully in civil society, better contribute to the economic growth of their communities, and interact with government officials without fear. The Executive Action is a practical and much-needed exercise of enforcement discretion that will

allow those who qualify under expanded DACA and DAPA to participate more fully and safely in their cities, counties, and communities.

Amici demonstrate herein that a delay in implementing the Executive Action harms their cities and counties and all residents thereof by forestalling the critical benefits of that Action, which include increasing public safety and public engagement, fueling economic growth, and facilitating the full integration of immigrant residents by promoting family unity and limiting family separation. These benefits are real, and they will accrue day by day. By contrast, the plaintiffs have not identified any comparable concrete harm that would result from allowing the Executive Action to be implemented during the pendency of this case. The district court failed to consider the important and timely public interests that affect the ____ million people within *amici*'s jurisdictions, and this is one reason, among many, that the court's grant of a preliminary injunction should be reversed.

STATEMENT PURSUANT TO FED. R. APP. P. 29(c)(5)

No party to this proceeding authored any part of this brief. No party or counsel to any party to this proceeding, nor any other person other than *amici*, contributed money that was intended to fund preparing or submitting this brief.

ARGUMENT

The United States has well demonstrated the errors in the district court's holding that plaintiffs have a likelihood of success on the merits on their claim

under the Administrative Procedure Act. *Amici* focus here on the district court's failure to give appropriate consideration to the harms to the public interest that its preliminary injunction will cause. The grant of the preliminary injunction and corresponding delay in the implementation of the Executive Action is strongly contrary to the public interest, because the Executive Action will (a) increase public safety by encouraging immigrant residents to trust and cooperate with law enforcement; (b) fuel economic growth through job creation and new tax revenue; and (c) facilitate the full integration of immigrants into their communities and promote family unity. These important interests affect every resident of the ____ cities and counties that *amici* represent, day in and day out, and these interests must be taken into account when considering whether a preliminary injunction delaying implementation of the Executive Action pending the resolution of this case will serve, or disserve, the public interest. As *amici* demonstrate below, the Executive Action provides significant benefits to *amici* and the residents of *amici*'s cities and counties, and a delay in its implementation causes concrete and potentially irreversible harms.

I. The District Court Failed to Adequately Consider the Harm to the Public Interest

It is well established that plaintiffs are entitled to the extraordinary remedy of a preliminary injunction only if they can show (1) a likelihood of success on the merits; (2) a substantial threat of irreparable injury; (3) that the threatened injury outweighs any harm that will result if the injunction is granted; and (4) that the injunction will not disserve the public interest. *See Sells v. Livingston*, 750 F.3d 478, 480 (5th Cir. 2014). This Court reviews the district court’s analysis of these factors under an abuse of discretion standard, *see House the Homeless, Inc. v. Widnall*, 94 F.3d 176, 180 (5th Cir. 1996), but the Supreme Court has repeatedly confirmed that “[i]n exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction.” *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982); *see also Winter v. Natural Res. Defense Council, Inc.*, 555 U.S. 7, 24 (2008).

Here, however, the district court failed to “pay particular regard”—or, indeed, anything more than a superficial regard—for the harm that an injunction would cause to the public interest. *See* February 16, 2015 Mem. Op. and Order, Dkt. 145-2 at 120-121. Rather, based almost entirely on its finding that a single plaintiff State—Texas—would suffer irreparable harm because of the purported financial cost of processing additional driver’s license applications, the district court issued a nationwide injunction that has the direct effect of harming the public

interest across this country. In particular, the nationwide injunction runs counter to the interests expressed by the *amici* local governments that are represented here, as well as the expressed interests of 14 states and the District of Columbia, which filed their own amicus curiae brief in support of appellants.³

The district court erred in elevating the rather narrow economic interests of one plaintiff State over the countervailing and far broader public interests that the grant of the preliminary injunction will dramatically impair. This Court has stressed that when considering whether to issue a preliminary injunction, courts must look beyond “the immediate interests of the named litigants” and consider the widespread public interest that would be affected by granting or withholding the injunction. *Mississippi Power & Light Co. v. United Gas Pipe Line Co.*, 760 F.2d 618, 626 (5th Cir. 1985) (enjoining gas supplier from charging power company certain rates because of the “vital public interest involved in protecting the consumers of [the power company] against the harmful effect of overcharges”). But the district court failed to take into account any of the important benefits to *amici* and their residents that are discussed here and in the briefs of other *amici*.⁴

³ See *Texas v. United States*, No. 15-40238, Brief of the Amicus States of Washington, California, Connecticut, Delaware, Hawai’i, Illinois, Iowa, Maryland, Massachusetts, New Mexico, New York, Oregon, Rhode Island, and Vermont, and the District of Columbia, in Support of Motion to Stay District Court Preliminary Injunction, dated March 17, 2015.

⁴ See *Texas v. United States*, 1:14-cv-00254, Dkt. No. 81 (States’ Motion for Leave to Participate as Amici Curiae and Brief in Opposition to Plaintiffs’ Motion for Preliminary Injunction), Dkt. No. 83-1 (Amici Curiae Brief of Major Cities Chiefs Association, *et al.*, in Opposition to

The district court's disregard of the broader interests at play was improper, particularly since the public interest factor "primarily addresses impact on non-parties." *Hunter v. Hamilton County Bd. of Elections*, 635 F.3d 219, 244 (6th Cir. 2011) (internal quotation marks and citation omitted).

The district court's failure to properly consider the harm to the public interest was error, and its grant of a preliminary injunction should be reversed. *See, e.g., eBay Inc. v. MercExchange, LLC*, 547 U.S. 388, 394 (2006) (vacating judgment of court of appeals where "neither court below correctly applied the traditional four-factor framework that governs the award of injunctive relief"); *Edmisten v. Werholtz*, 287 F. App'x 728, 734-35 (10th Cir. 2008) (reversing and remanding the denial of a preliminary injunction due to the district court's failure to adequately analyze the public-interest prong).

II. Delaying the Implementation of the Executive Action Harms the Public Interest

A. The Executive Action Will Increase Public Safety by Encouraging More Immigrant Residents to Cooperate With Law Enforcement

The district court ignored the important interest of *amici* and the residents of *amici*'s cities and counties in increasing public safety, and further ignored that communities and their residents are harmed every day when benefits to the public

Plaintiffs' Motion for Preliminary Injunction), Dkt. No. 121 (Brief for Amici Curiae the Mayors of New York and Los Angeles, *et. al*, in Opposition to Plaintiffs' Motion for Preliminary Injunction).

safety are deferred. This Court has recognized that injunctions which limit the police's ability to conduct good-faith law enforcement efforts can cause "considerable potential harm to the public interest." *Spiegel v. Houston*, 636 F.2d 997, 1002 (5th Cir. 1981) (reversing as overbroad a preliminary injunction that prevented law enforcement from taking personal information from adult movie theater patrons under any circumstance). The district court's grant of a preliminary injunction preventing the implementation of the Executive Action will have just that effect, as it is likely to hinder the ability of local law enforcement to gain the trust and cooperation of many members of immigrant communities in reporting and investigating crimes.

It is beyond question that law enforcement officers and representatives of local government require the trust, support, and cooperation of their communities to be effective. To further the police-community bond, local law enforcement agencies have increasingly turned to "community policing," an approach to policing where officers engage the community as partners in the effort to reduce crime.⁵ However, as local leaders are keenly aware, undocumented immigrants

⁵ Anita Khashu, Police Foundation, *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties* vii, 24 (April 2009), available at <http://www.policefoundation.org/content/role-of-local-police>; see also Robert Wasserman, U.S. Department of Justice, Office of Community Oriented Policing Services, *Guidance for Building Communities of Trust* (2010), available at http://nsi.ncirc.gov/documents/e071021293_BuildingCommTrust_v2-August%2016.pdf (emphasizing the importance for communities and law enforcement to build and maintain trusting relationships to prevent acts of crime and terrorism).

often fear interactions with law enforcement and government officials because of concerns that government representatives will inquire about their immigration status or the status of a family member or friend.⁶ Any delay in the implementation of the Executive Action directly harms the ability of local law enforcement to protect the community because such delay maintains a major barrier – fear of deportation – preventing undocumented immigrants from contacting and working with police.

Trust in law enforcement among immigrant communities is particularly important when immigrants are victims or witnesses of crimes. The Major Cities Chiefs Association, a professional association of chiefs and sheriffs from the country's largest cities, has powerfully expressed the vital need to encourage immigrants' cooperation with law enforcement efforts:

Assistance and cooperation from immigrant communities is especially important when an immigrant, whether documented or undocumented, is the victim of or witness to a crime. These persons must be encouraged to file reports and come forward with information. Their cooperation is needed to prevent and solve crimes and

⁶ Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement* i-ii, 5-6 (May 2013), available at http://www.academia.edu/4738588/Insecure_Communities_Latino_Perceptions_of_Police_Involvement_in_Immigration_Enforcement (presenting findings from survey of approximately 2,000 Latinos in Chicago, Houston, Los Angeles, and Phoenix and their metropolitan areas that indicate heightening of fears among Latinos of local law enforcement and impact on crime reporting by immigrants and U.S.-born Latinos).

maintain public order, safety, and security in the whole community.⁷

Studies have shown that a large percentage of undocumented immigrants avoid law enforcement out of fear that contact with police could lead to deportation. For instance, a 2013 survey of more than 2,000 Latinos living in Chicago, Houston, Los Angeles, and Phoenix—cities with large immigrant populations—found that among undocumented immigrants, 70 percent were less likely to contact police officers if they were victims of a crime for fear police would ask about the immigrant’s immigration status, and 67 percent were less likely to voluntarily offer information about crimes or report a crime to police officers due to the same concerns.⁸

All residents of *amici*’s cities and counties are harmed each time that a person fails to report a crime or is in fear of working with police officers investigating a crime. Unfortunately, immigrants are particularly susceptible as victims. Criminals know that many immigrants are reluctant to report crimes out of a concern that police officers will question them about their immigration status

⁷ Major Cities Chiefs Immigration Committee, *Recommendations: For Enforcement of Immigration Laws by Local Police Agencies* 5 (June 2006), available at http://www.houstontx.gov/police/pdfs/mcc_position.pdf (noting also that “[l]ocal police contacts in immigrant communities are important as well in the area of intelligence gathering to prevent future terroristic attacks and strengthen homeland security”).

⁸ Theodore, *supra* note 6, at 5-6.

or the immigration status of a friend or family member.⁹ The concern that interactions with police will lead to the identification and deportation of a family member affects a large number of immigrants: it is estimated that 85 percent of immigrants are part of families where some members are undocumented.¹⁰

When perpetrators of crime remain free, the victim of the crime remains vulnerable and afraid of further harm, and criminals are able to target other innocent and unsuspecting victims.¹¹ This cycle of crime, victimization, and fear of cooperation with police harms all of *amici*'s constituents. And once suffered, these harms cannot be reversed: each victim who is afraid to report a crime or work with police may be preventing the arrest and prosecution of a violent criminal, who is then free and enabled to commit further crimes.

While the Executive Action will not eliminate completely the concerns that many immigrants express in cooperating with law enforcement, by allowing a larger number of otherwise law-abiding immigrants to formalize their deferred status, the Executive Action will increase trust and reduce trepidation of engaging

⁹ Matthew Lysakowski, *et al.*, U.S. Dep't of Justice, *Policing in New Immigrant Communities* 3 (June 2009), available at <http://vera.org/sites/default/files/resources/downloads/e060924209-NewImmigrantCommunities.pdf>.

¹⁰ Khashu, *supra* note 5, at vii, 24.

¹¹ See Amy Braunschweiger, Human Rights Watch, *Nashville Immigrants Too Scared to Call the Police* (May 19, 2014), available at <http://www.hrw.org/news/2014/05/19/nashville-immigrants-too-scared-call-police> (describing experience of a Nashville immigrant mother's fear of calling police after her daughter was assaulted).

with law enforcement. The Executive Action is expected to make up to 4 million people eligible for deferred action and a corresponding formalization of their ability to stay in the United States on a temporary basis.¹² To qualify for deferred action, immigrants will have to come forward and interact with government officials in ways that they may have been hesitant to do previously. For instance, immigrants applying for deferred action and work authorization under the Executive Action would have to register, submit biometric data, pass background checks, and pay fees, among other requirements.¹³

By allowing a larger number of immigrants to formalize their deferred status, obtain work authorization, and experience that interactions with government are not events to be feared, the Executive Action will increase trust and eliminate barriers between law enforcement and members of immigrant communities, some of whom have lived in their communities for many years and would be valuable resources to law enforcement. A preliminary injunction directly and immediately harms the interest of *amici* and their constituents because it prevents the

¹² Press Release, Migration Policy Institute, As Many as 3.7 Million Unauthorized Immigrants Could Get Relief from Deportation under Anticipated New Deferred Action Program (Nov. 19, 2014), *available at* <http://migrationpolicy.org/news/mpi-many-37-million-unauthorized-immigrants-could-get-relief-deportation-under-anticipated-new> (estimating 3.7 million DAPA-eligible immigrants and 290,000 additional DACA-eligible immigrants under the expansion of the program).

¹³ *Executive Actions on Immigration*, U.S. Citizenship and Immigration Services, <http://www.uscis.gov/immigrationaction> (last visited Mar. __, 2015).

implementation of an important immigration enforcement policy that would lead to improved public safety for the entire community.

B. The Executive Action Will Stimulate Economic Growth in Cities and Counties Nationwide

The preliminary injunction entered below will also forestall substantial economic benefits that the Executive Action will yield for communities and neighborhoods across the country. Although the district court considered the purported economic harm to Texas that would result from processing additional driver's license applications while this action was pending, that purported harm is dwarfed by the significant economic benefits that the Executive Action's implementation will produce—benefits that would accrue day by day. The government leaders and cities represented in this brief have seen first-hand that their cities and counties receive a significant economic boost from the presence of immigrants in the work force. By allowing a greater number of qualifying undocumented workers to obtain authorization to work, as the Executive Action is expected to do, the Executive Action furthers the economic interest of *amici* and the public.

As part of its consideration of the public interest prong of the preliminary injunction standard, the district court should have accounted for how the Executive Action affects the public's economic interests. *See, e.g., Amoco Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 545-46 (1987) (rejecting balancing test that elevated

environmental subsistence concerns over public's interest in development of energy resources); *Productos Carnic, S.A. v. Central Am. Beef & Seafood Trading Co.*, 621 F.2d 683, 687 (5th Cir. 1980) (noting that public interest favors economic efficiency); *Springer v. United States Marshal*, 137 F. App'x. 657, 658 (5th Cir. 2005) (noting that appellants' request for an injunction barring federal funding for a local detention center "is completely at odds with the public interest, inasmuch as it would create serious economic problems for [the local county]").

Cities have long benefitted economically from growth in their immigrant populations. In New York City, for instance, following lean economic years in the 1970s and a decline in population, the city's focus on building up its service industries attracted an influx of immigrants, whose "relative youth and economic activity" ushered in an "era of renewal and growth."¹⁴ Similarly, in Los Angeles County, the "wave of new foreign-born residents" moving to the area between 1970 and 2010 is credited with helping the county maintain its status as the largest major manufacturing center in the United States.¹⁵

¹⁴ N.Y. City Dep't of City Planning, *The Newest New Yorkers: Characteristics of the City's Newest Foreign-born Population* 1 (2013), available at <http://www.nyc.gov/html/dcp/pdf/census/nnny2013/chapter1.pdf>.

¹⁵ Jacob L. Vigdor, *Immigration and the Revival of American Cities* 8 (Sept. 2013), available at <http://www.renewoureconomy.org/wp-content/uploads/2013/09/revival-of-american-cities.pdf> (concluding that when 1,000 immigrants move to an area 46 manufacturing jobs are created or preserved, thus the influx of 2.7 million immigrants to Los Angeles County between 1970 and 2010 helps explain why Los Angeles lost relatively fewer manufacturing jobs during that time,

In addition to New York City and Los Angeles County, many other localities have recognized that immigrants—including undocumented immigrants—are a source of needed vitality, including economic vitality, as is evident from the creation of dedicated city-funded offices supporting immigrants' well-being, regardless of the immigrants' federal immigration status.¹⁶ Further, in some cities

as compared to Chicago, the second-largest manufacturing center in the United States, which added only 600,000 immigrants from 1970 to 2010).

¹⁶ Boston, Baltimore, Chicago, New York City, Philadelphia, Houston, Los Angeles, San Francisco, and Seattle have offices and staff dedicated to supporting immigrants. See City of Baltimore, Mayor's Office of Immigrant and Multicultural Affairs, <http://mayor.baltimorecity.gov/node/2229> (last visited Jan. 22, 2015); City of Boston, Mayor's Office of New Bostonians, <http://www.cityofboston.gov/newbostonians/> (last visited Jan. 22, 2015); City of Chicago, Office of New Americans, http://www.cityofchicago.org/city/en/depts/mayor/provdrs/office_of_new_americans.html (last visited Jan. 22, 2015); City of Houston, Office of International Communities, <http://www.houstontx.gov/oic> (last visited Jan. 22, 2015); Office of Los Angeles Mayor Eric Garcetti, Mayor's Office of Immigrant Affairs, <http://www.lamayor.org/immigrants> (last visited Jan. 22, 2015); New York City Mayor's Office of Immigrant Affairs, <http://www.nyc.gov/html/imm/html/home/home.shtml> (last visited Jan. 22, 2015); City of Philadelphia, Immigrant and Multicultural Affairs <http://www.phila.gov/ima/Pages/default.aspx> (last visited Jan. 22, 2015); City of San Francisco, Office of Civic Engagement & Immigrant Affairs, <http://sfgsa.org/index.aspx?page=957> (last visited Jan. 22, 2015); City of Seattle, Office of Immigrant and Refugee Affairs, <http://www.seattle.gov/office-of-immigrant-and-refugee-affairs> (last visited Jan. 22, 2014).

Other cities and counties including Atlanta, Austin, Charlotte, Pittsburgh, Portland, St. Louis, Allegheny County, Pennsylvania, and Montgomery County, Maryland, also have launched immigrant-integration initiatives. See City of Atlanta, *Mayor Kasim Reed and City of Atlanta Announce Results of Welcoming America Working Group*, Sept. 17, 2014, <http://www.atlantaga.gov/index.aspx?recordid=3041&page=672>; City of Austin, *Austin Promotes Immigrant-Friendly, Welcoming Environment*, June 27, 2013, <http://austintexas.gov/news/austin-promotes-immigrant-friendly-welcoming-environment>; City of Charlotte, Immigrant Integration Task Force, <http://charmeck.org/city/charlotte/cic/getinvolved/pages/immigrant-integration-task-force.aspx> (last visited Jan. 22, 2015); Office of Pittsburgh Mayor William Peduto, *Mayor William Peduto launches Welcoming Pittsburgh Initiative*, May 28, 2014, <http://pittsburghpa.gov/mayor/release?id=3112>; City of Portland, Diversity and Civic Leadership Program, <http://www.portlandoregon.gov/oni/45147> (last visited Jan. 22, 2015); *St. Louis Mosaic*

and counties that have experienced recent economic struggles, organizations have launched immigrant-integration initiatives “as a means to produce jobs and regional economic growth,”¹⁷ and government officials have lauded how immigrant populations have “renovated and revitalized whole neighborhoods.”¹⁸

A major reason that cities and counties have taken these steps to support the integration of immigrants in their communities is the proven boost that results for local economies and local labor markets. For instance, a 2012 report by the Partnership for a New American Economy estimated that immigrants started 28 percent of all new businesses in the country in 2011, and that immigrant-owned businesses generate more than \$775 billion in revenue, \$125 billion in payroll, and \$100 billion in income, as well as employing one out of every 10 workers in the

Project, <http://www.stlmosaicproject.org/> (last visited Jan. 22, 2015) (city-funded regional initiative launched in 2012 to welcome immigrants to St. Louis); Allegheny County, *A Welcoming America County*, <http://www.alleghenycounty.us/executive/WelcomingAmerica.aspx> (last visited Mar. 19, 2015); Montgomery County Charles W. Gilchrist Center for Cultural Diversity, <http://www.montgomerycountymd.gov/gilchrist/index.html> (last visited Mar. 19, 2015).

¹⁷ See Global Detroit, About Us, <http://www.globaldetroit.com/about> (describing Global Detroit as a non-profit that focuses on revitalizing “Michigan’s economy by pursuing strategies that strengthen Detroit’s connections to the world to make the region more attractive and welcoming to immigrants, internationals, and foreign trade and investment as a means to produce jobs and regional economic growth”) (last visited Mar. ____, 2015).

¹⁸ Susan Hartman, *A New Life for Refugees, and the City They Adopted*, N.Y. Times, Aug. 10, 2014, http://www.nytimes.com/2014/08/11/nyregion/a-new-life-for-refugees-and-the-city-they-adopted.html?_r=0 (quoting Oneida county executive Anthony J. Picente Jr.); cf. Julia Preston, *Ailing Midwestern Cities Extend a Welcoming Hand to Immigrants*, N.Y. Times, Oct. 6, 2013, at <http://www.nytimes.com/2013/10/07/us/ailing-cities-extend-hand-to-immigrants.html> (noting welcoming attitudes among local officials in Dayton towards undocumented immigrants).

United States.¹⁹ Immigrants have a particularly significant footprint when it comes to the creation and management of businesses that make up the “backbone” of local communities; a January 2015 report showed that in 2013, immigrants in the United States made up 61 percent of all gas station owners, 58 percent of dry cleaners owners, 53 percent of grocery store owners, 45 percent of nail salon owners, 43 percent of liquor store owners, 38 percent of restaurant owners, and 32 percent of both jewelry and clothing store owners.²⁰ And research shows that the employment opportunities created by immigrant-owned businesses and immigration in general have a long-term beneficial effect on all U.S. workers, including U.S.-born wage earners.²¹

While immigration in general provides long-term economic benefits for cities, counties, and wage-earners, the implementation of the Executive Action also

¹⁹ Robert W. Fairlie, Partnership for a New American Economy, *Open for Business: How Immigrants are Driving Small Business Creation in the United States* 3 (August 2012), available at <http://www.renewoureconomy.org/sites/all/themes/pnae/openforbusiness.pdf>.

²⁰ Americas Society/Council of the Americas & Fiscal Policy Institute, *Bringing Vitality to Main Street: How Immigrant Small Businesses Help Local Economies Grow* 2 (January 2015), available at <http://fiscalpolicy.org/wp-content/uploads/2015/01/Bringing-Vitality-to-Main-Street.pdf>.

²¹ Heidi Shierholz, Econ. Policy Inst. Briefing Paper No. 255, *Immigration and Wages: Methodological Advancements Confirm Modest Gains for Native Workers* 19-20 (Feb. 4, 2010), available at <http://www.epi.org/files/page/-/bp255/bp255.pdf> (finding that between 1994 and 2007, immigration caused a 0.4 percent increase in wages for U.S.-born workers, relative to foreign-born workers); see also Gianmarco I.P. Ottaviano & Giovanni Peri, Nat’l Bureau of Econ. Research, *Rethinking the Effects of Immigration on Wages* 4 (2006, revised 2008), available at <http://www.nber.org/papers/w12497> (finding that U.S.-born workers’ wages increased 0.7 percent due to immigration between 1990 to 2004).

would create an immediate economic spark for those groups. On a national level, one study estimates that if 3.8 million people obtained work permits through the Executive Action, it would lead to a labor income increase of \$7.1 billion, which will result in more than \$2.6 billion in new tax revenue and the creation of more than 167,000 new jobs.²² Another study concludes that if 4.7 million people obtained work permits through the Executive Action, it would result in increased payroll tax revenues of \$2.87 billion in the first year and \$21.24 billion in the first five years of the program.²³ Moreover, providing work authorization to individuals covered by the Executive Action is certain to improve worker protections, minimizing wage theft and the loss in tax revenue from the wage theft.²⁴

The economic benefit of the Executive Action can be quantified on a local level as well. Taking New York City as an example, if, as some studies have found, an undocumented worker's wages increase by seven percent when he or she

²² Raul Hinojosa-Ojeda and Maksim Wynn, UCLA North American Integration and Development Center, *From the Shadows to the Mainstream: Estimating the Economic Impact of Presidential Administrative Action and Comprehensive Immigration Reform* 32 (Nov. 21, 2014), available at http://naid.ucla.edu/uploads/4/2/1/9/4219226/ucla_naid_center_report_-_estimating_the_economic_impact_of_presidential_administrative_action_and_comprehensive_immigration_reform.pdf.

²³ Patrick Oakford, Center for American Progress, *Administrative Action on Immigration Reform: The Fiscal Benefits of Temporary Work Permits* 9 (2014), available at <http://cdn.americanprogress.org/wp-content/uploads/2014/09/OakfordAdminRelief.pdf>.

²⁴ *Id.* at 5 (“The interaction between our broken immigration system and employment and labor laws have made undocumented workers more susceptible to exploitation in the workplace, leading them to earn lower wages than they otherwise could.”).

obtains authorization to work,²⁵ then an undocumented worker in New York City currently making \$3,200 a month—the average monthly wage for undocumented workers in New York state²⁶—is missing out on an average of \$224 every month in marginal wage gains that he or she would earn if the Executive Action were in place. If even only 100,000 undocumented workers in New York City who obtained temporary work authorization were taxed on their additional \$224 in earnings at 7.1 percent—the estimated effective tax rate for undocumented workers in New York state²⁷—then the state and the city would reap more than \$1.5 million *monthly* in marginal state and local tax revenue.²⁸ Certainly, a delay in the Executive Action’s implementation directly harms local economies and residents

²⁵ Raul Hinojosa-Ojeda and Maksim Wynn, *supra* n. ___, at 12 (table comparing income impact by legal status); *see also* Silva Mathema, Center for American Progress, *The High Costs of Delaying Executive Action on Immigration* (March 13, 2015), available at <https://www.americanprogress.org/issues/immigration/news/2015/03/13/108768/the-high-costs-of-delaying-executive-action-on-immigration> (estimating that work authorization increases earnings of an undocumented worker by nearly 8.5 percent).

²⁶ Institute on Taxation and Economic Policy, *Undocumented Immigrants’ State and Local Tax Contributions* 9 (July 2013), available at <http://www.itep.org/pdf/undocumentedtaxes.pdf> (estimating \$38,400 in annual income for average undocumented worker in New York state).

²⁷ *Id.* at 7.

²⁸ The number of individuals in New York City likely to be eligible for temporary work authorization under the Executive Action is likely to be far greater than 100,000 and is perhaps as high as 183,000. *See* Migration Policy Institute, *Unauthorized Immigrant Population Profiles: County Profiles* (2015), available at <http://www.migrationpolicy.org/programs/us-immigration-policy-program-data-hub/unauthorized-immigrant-population-profiles> (follow link to “County-Level Estimates on DACA & DAPA Populations,” estimating population eligible for expanded DACA and DAPA in New York City’s five counties—New York, Kings, Queens, the Bronx, and Richmond) (last visited Mar. ___, 2015).

by reducing the potential tax revenues for cities and counties, reducing the subsequent public spending and benefits that would come from that tax revenue, and limiting the increased economic activity that would result from additional income among immigrant households.

Past experience also suggests that the Executive Action will rapidly improve the economic outlook for many of the currently undocumented workers living in *amici*'s cities and counties. Studies tracking how the 2012 Deferred Action for Childhood Arrivals Program ("2012 DACA") affected young adults show marked progress for those individuals in several economic indicators. For instance, a survey of nearly 2,400 individuals who received 2012 DACA showed that within two years, almost 60 percent of beneficiaries obtained a new job, and 45 percent increased their salaries.²⁹ Further, 49 percent of those surveyed opened their first bank accounts within two years after receiving 2012 DACA, and 33 percent obtained their first credit card.³⁰

The Executive Action will similarly benefit a broad group of immigrants who already have significant ties to *amici*'s cities and counties and who already contribute economically in various ways. By formalizing the work status of

²⁹ Roberto Gonzales & Angie M. Bautista-Chavez, American Immigration Council, *Two Years and Counting: Assessing the Growing Power of DACA* 3 (June 2014), available at <http://www.immigrationpolicy.org/special-reports/two-years-and-counting-assessing-growing-power-daca>.

³⁰ *Id.*

hundreds of thousands of wage-earners, the Executive Action will increase wage levels and tax revenues in the *amici*'s jurisdictions. Preventing the immediate implementation of the Executive Action will have the opposite effect, depriving local governments and residents of these proven economic benefits. Such a result would be contrary to the public interest.

C. The Executive Action Will Promote Family Unity and Facilitate the Integration of Immigrant Residents in Cities Nationwide

The profound importance of family unity is codified in the nation's immigration laws³¹ and recognized as a protected liberty interest under the U.S. Constitution. *See, e.g., Moore v. City of East Cleveland*, 431 U.S. 494, 503 (1977) (“[O]ur decisions establish that the Constitution protects the sanctity of the family precisely because it is deeply rooted in the Nation’s history and tradition.”); *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (noting that “[t]he Court has frequently emphasized the importance of the family”). The *amici* mayors, county executives, and local governments have a strong interest in federal action that promotes family unity because a rupture in the family unit results in many potentially harmful outcomes that often fall to local governments to address, such

³¹ *See, e.g.,* 8 U.S.C. § 1254a(c)(2)(A)(ii) (allowing the Attorney General to find certain individuals eligible for Temporary Protected Status “for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest”); 8 U.S.C. § 1182(d)(11) (providing Attorney General with discretionary waiver of exclusion in certain circumstances, including to “assure family unity”); *Holder v. Martinez Gutierrez*, ___ U.S. ___, 132 S. Ct. 2011, 2019 (2012) (noting that “promoting family unity” is one of the goals that “underlie or inform many provisions of immigration law”).

as reduced household income, increased reliance on public benefits and services, increased occurrences of negative health consequences for children, and a greater likelihood of educational problems for children. Further, *amici* have a strong interest in the full integration of all residents, including immigrants, into the fabric of the community. The district court wrongly failed to consider any of these important public interests.

Delayed implementation of the Executive Action forces immigrant families in mixed-status households—households where some members are documented or U.S. citizens and some are undocumented—to live under an ongoing fear of deportation and separation from their loved ones.³² The plain reality is that families are routinely torn apart through the enforcement of the immigration laws. For instance, in New York City from 2005 to 2010, 87 percent of the parents of U.S. citizen children that federal immigration authorities apprehended were

³² An estimated 5.5 million U.S. citizen children live with an undocumented parent who is eligible for DAPA. See Manuel Pastor, *et al.*, University of Southern California Dornsife Center for the Study of Immigrant Integration, *The Kids Aren't Alright – But They Could Be: The Impact of Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) on Children* (March 2015), available at http://dornsife.usc.edu/assets/sites/731/docs/DAPA_Impact_on_Children_CSII_Brief_Final_01.pdf; see also Paul Taylor, *et al.*, Pew Research Center, *Unauthorized immigrants: Length of Residency, Patterns of Parenthood* (Dec. 1, 2011), available at <http://www.pewhispanic.org/2011/12/01/unauthorized-immigrants-length-of-residency-patterns-of-parenthood> (estimating that 9 million people live in mixed-status families that include at least one undocumented adult and one U.S.-born child).

deported,³³ and nationally 46,000 parents of citizen children were deported in the first six months of 2011 alone.³⁴

The broader community and local government, as well as immigrant families themselves, are harmed when deportation ruptures family unity. From a community and government perspective, the splitting of families through deportation results in direct financial costs. Children in single-parent households are more than four times as likely to live in poverty than are children with married parents,³⁵ and households that lose the family breadwinner due to immigration enforcement experience “steep declines” in income, housing instability, and food insufficiency, resulting in increased reliance on public benefits.³⁶ Deportations that split up families also cause increased stress upon already busy public service

³³ N.Y. Univ. School of Law Immigrant Rights Clinic, *Insecure Communities, Devastated Families: New Data on Immigrant Detention and Deportation Practices in New York City* 18 (2012), available at <http://immigrantdefenseproject.org/wp-content/uploads/2012/07/NYC-FOIA-Report-2012-FINAL.pdf>.

³⁴ Seth Freed Wessler, *U.S. Deports 46K Parents with Citizen Kids in Just Six Months*, Colorlines, Nov. 3, 2011, available at http://colorlines.com/archives/2011/11/shocking_data_on_parents_deported_with_citizen_children.html.

³⁵ Joanna Dreby, Center for American Progress, *How Today's Immigration Enforcement Policies Impact Children, Families, and Communities* 9 (August 2012), available at <http://cdn.americanprogress.org/wp-content/uploads/2012/08/DrebyImmigrationFamiliesFINAL.pdf>.

³⁶ Ajay Chaudry, et al., Urban Institute, *Facing Our Future: Children in the Aftermath of Immigration Enforcement* viii-ix (February 2010), available at http://www.urban.org/uploadedpdf/412020_FacingOurFuture_final.pdf at viii-ix (examining consequences of parental arrest, detention, and deportation on 190 children in 85 families in six locations in the U.S.).

systems, such as the foster care system. One study estimates that in 2011 there were 5,100 children in foster care nationwide whose parents had been either detained or deported,³⁷ placing increased strain upon local governments' foster care systems and on the child whose parents could no longer provide care and comfort.

From a family perspective, research has shown that children left behind after the deportation of a family member may experience a number of significant health setbacks and have a greater likelihood of struggling in school and even dropping out completely. For instance, interviews with a sample of children who had experienced separation from a parent within the last six months due to immigration detention found that in addition to approximately two-thirds of the children having trouble eating and sleeping, more than 40 percent were considered "anxious" or "withdrawn" and only slightly fewer were "angry or aggressive."³⁸ The same

³⁷ Seth Freed Wessler, Applied Research Center, *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System* 6 (November 2011), available at http://www.atlanticphilanthropies.org/sites/default/files/uploads/ARC_Report_Shattered_Families_FULL_REPORT_Nov2011Release.pdf.

³⁸ Chaudry, *et al.*, *supra* n. ___, at 41-42; *see also id.* at 41-53 (detailing short-term and long-term behavior changes among children who experienced separation from parents due to immigration enforcement); Kalina Brabeck, *et al.*, Report for the Inter-American Human Rights Court, *The Psychosocial Impact of Detention and Deportation on U.S. Migrant Children and Families* 5 (August 2013), available at <http://www.bc.edu/content/dam/files/centers/humanrights/doc/IACHR%20Report%20on%20Psychosocial%20Impact%20of%20Detention%20%20Deportation-FINAL%208-16-13.pdf> ("The physical separation between a parent and child, particularly when unexpected as in the case of deportation, disrupts the essential secure base, risking internalizing symptoms (depression,

study also reported instances where non-arrested parents were afraid to return their children to school after the arrest of one parent on immigration-related charges, while older students occasionally dropped out of school entirely to assist non-arrested parents or siblings.³⁹ The *amici* local governments have a significant public health interest in ensuring that all children in their communities – children of undocumented immigrants included – are healthy, educated, and able to participate in community life.

The implementation of the Executive Action will promote family well-being and children's health by offering stability and reassurance to the millions of children whose parents can apply for temporary relief from deportation through DAPA. This is a key benefit because studies show that children's health is negatively impacted simply by the *threat* that a close family member will be detained or deported. As the nation's immigration issues and policies are frequently discussed in the media and in immigrant communities, immigrant children and adults develop understandable fears about visiting public spaces and engaging with government and law enforcement officials.⁴⁰ Children of immigrants also begin to associate all immigrants with illegality and link their own

anxiety), externalizing behaviors (withdrawal, aggression), and social and cognitive difficulties.”).

³⁹ Chaudry, *et al.*, *supra* n. ___, at 49-50.

⁴⁰ Dreby, *supra* n. ___, at 21.

immigrant heritage with feelings of shame.⁴¹ The Executive Action will help address these ongoing negative impacts on family well-being and children's health; delay in implementation obstructs these much-needed social benefits to the detriment of cities and counties.⁴²

Amici have a strong interest in ensuring that all members of the community feel comfortable getting involved in local issues and community affairs, whether that means volunteering in local schools, participating in community board meetings, or simply interacting with their local governments. The Executive Action will increase civic engagement because, for those that qualify, it will remove the threat that interactions with school officials, law enforcement, and other local government officials will result in arrest or deportation.

Allowing the federal government to implement the Executive Action will help to prevent the splitting of families due to deportation and directly encourage greater immigrant participation in community life while this action is pending. For

⁴¹ *Id.* at 27-28; see also Max Ehrenfreund, *How having an undocumented parent hurts American children*, Wash. Post, March 4, 2015, <http://www.washingtonpost.com/blogs/wonkblog/wp/2015/03/04/how-having-an-undocumented-parent-hurts-american-children> (reporting on study of Los Angeles households that surveyed 2,535 children and determined that even young children of undocumented parents are aware of the risks of family separation and feel shame about their family's immigration status).

⁴² See Joanna Dreby, Center for American Progress, *Executive Action on Immigration will Help Children and Families* (March 3, 2015), available at <https://www.americanprogress.org/issues/immigration/news/2015/03/03/107769/executive-action-on-immigration-will-help-children-and-families/?elqTrackId=1728770977694509a243555a81ef9d2e&elqaid=24822&elqat=1> (emphasizing the toll that immigration system has on American families and the potential for improvement due to the Executive Action).

this reason, too, the preliminary injunction blocking implementation of the Executive Action is contrary to the public interest.

CONCLUSION

For the reasons set forth in this Brief, as well as those set forth by appellants and their other supporting *amici*, the district court's grant of a preliminary injunction should be reversed.

Respectfully submitted,

March __, 2015

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CITIES/COUNTIES AMICUS MEMO—APPEAL TO FIFTH CIRCUIT ON
PRELIMINARY INJUNCTION RULING

The New York City Law Department is preparing an amicus brief, with lead amici to be the Mayors of New York and Los Angeles, for filing in the Fifth Circuit Court of Appeals in support of the defendants in the *Texas v. United States* case, further described below. Please review this memorandum and advise the individuals listed below if your mayor, city, county executive, or county wishes to join the brief once it is circulated.

PART I -- ACTION ITEMS

1. Request for Information

If you have any information regarding the harm that your city or county will experience as a result of a delay in implementation of the federal government's executive action on immigration, please provide it to the individuals listed below.

2. To join the amicus brief or to ask any questions, contact the following individuals

Jeremy Shweder
Senior Counsel, New York City Law Department
(212) 356-2611
jshweder@law.nyc.gov

Please cc:

Sonia Lin
General Counsel, Mayor's Office of Immigrant Affairs
(212) 788-2831
slin@cityhall.nyc.gov

To join the amicus brief, please have a legal or otherwise authorized representative of your mayor, city, county executive, or county send an email to the individuals listed above containing the attorney's signature block to be included in the brief.

Sample signature block:

ZACHARY W. CARTER
Corporation Counsel
100 Church Street
New York, New York 10007
(212) 356-2500
*Attorney for Bill de Blasio,
Mayor of New York*

3. Timing

We will determine filing deadlines, circulation deadlines, and the deadline to join the brief once the Fifth Circuit sets a briefing schedule.

PART II -- BASIC CASE INFORMATION

Case in which amicus brief will be submitted

- (a) *Texas v. United States*, appeal to the United States Court of Appeals for the Fifth Circuit from the grant of a preliminary injunction in S.D. Texas case No. 1:14-cv-254 (amicus will support defendants, the United States and several officials of the Department of Homeland Security).

In November 2014, the Secretary of the Department of Homeland Security (DHS) issued a series of memos about the agency's immigration enforcement priorities. As part of this, DHS issued a guidance memorandum calling for the case-by-case exercise of deferred action for low-priority immigrants, specifically those who came to the United States before 2010 and entered as children, as well as those who came to the United States before 2010 and are the parents of U.S. citizens or lawful permanent residents.

In December 2014, Texas, twenty-one other states, four governors, and the Attorney General of Michigan brought suit, contending that the DHS action is unlawful federal executive action. The district court granted plaintiffs a preliminary injunction on February 16, 2015. The defendants filed a notice of appeal to the Fifth Circuit on February 23, 2015 and also moved to stay the district court's preliminary injunction order. The Fifth Circuit has not issued a briefing schedule for the defendants' appeal, but we anticipate that the appeal will be expedited.

(b) Interests of the cities/counties and legal arguments to be made by the amicus brief

The amicus brief plans to focus on the fourth element of the preliminary injunction standard: whether the injunction will disserve the public interest. The district court purported to balance the public interest and found that the interest that "weighs the heaviest" was ensuring that actions of the executive branch comply with the law. Although the cities filed an amicus brief below explaining why granting a preliminary injunction would be strongly contrary to the

public interest, the district court failed to consider the cities' asserted interests and gave only cursory consideration of the public's interest in general.

In our amicus to the Fifth Circuit, we plan to demonstrate that (1) the district court failed to follow the legal standards in reviewing the public interest element because it did not take into account the impact of a preliminary injunction on a large category of the public with significant interest in the outcome (the cities and counties and those people living in cities and counties like those represented by the amicus signers); and (2) the granting of a preliminary injunction in fact harms the public interest. On the second point, we plan to show that a delay in the implementation of the DHS directives works harm on the people living in cities/counties because the implementation of the directives creates significant benefits to the cities/counties, including: (a) increasing public safety by encouraging immigrant residents to trust and cooperate with law enforcement; (b) fueling economic growth through job creation and new tax revenue; and (c) facilitating the full integration of immigrants into their communities and promoting family unity.

APPENDIX

For reference, the following mayors signed on to the amicus brief filed with the district court in support of defendants. Jurisdictions that had previously joined the district court brief should notify Jeremy Shweder and Sonia Lin if they intend to sign on to the Fifth Circuit brief.

- Mayor Bill de Blasio of New York, New York
- Mayor Eric Garcetti of Los Angeles, California;
- Mayor Kasim Reed of Atlanta, Georgia;
- Mayor Stephanie Rawlings-Blake of Baltimore, Maryland;
- Mayor Byron W. Brown of Buffalo, New York;
- Mayor James DiOSSa of Central Falls, Rhode Island;
- Mayor Rahm Emanuel of Chicago, Illinois;
- Mayor Steven Benjamin of Columbia, South Carolina;
- Mayor Nan Whaley of Dayton, Ohio;
- Mayor Michael B. Hancock of Denver, Colorado;
- Mayor Muriel Bowser of Washington, D.C.;
- Mayor Riley Rogers of Dolton, Illinois;
- Mayor Pedro Segarra of Hartford, Connecticut;
- Mayor Annise D. Parker of Houston, Texas;
- Mayor Steven M. Fulop of Jersey City, New Jersey;
- Mayor Paul Soglin of Madison, Wisconsin;
- Mayor Betsy Hodges of Minneapolis, Minnesota;
- Mayor Ras Baraka of Newark, New Jersey;
- Mayor Libby Schaaf of Oakland, California;
- Mayor Michael A. Nutter of Philadelphia, Pennsylvania;
- Mayor Bill Peduto of Pittsburgh, Pennsylvania;
- Mayor Charles Hales, on behalf of the City Council of the City of Portland, Oregon;
- Mayor Jorge O. Elorza of Providence, Rhode Island;
- Mayor John Dickert of Racine, Wisconsin;

- Mayor Tom Butt of Richmond, California;
- Mayor Lovely Warren of Rochester, New York;
- Mayor Ralph Becker of Salt Lake City, Utah;
- Mayor Edwin Lee of San Francisco, California;
- Mayor Gary R. McCarthy of Schenectady, New York;
- Mayor Edward B. Murray of Seattle, Washington;
- Mayor Francis G. Slay of St. Louis, Missouri;
- Mayor Marilyn Strickland of Tacoma, Washington;
- Mayor Mike Spano of Yonkers, New York.
- *Amici* also included the United States Conference of Mayors and the National League of Cities.

The following law enforcement leaders joined an amicus brief filed with the district court in support of defendants:

- Major Cities Chiefs Association
- Police Executive Research Forum
- Chief Art Acevedo, City of Austin, Texas, Police Department
- Chief Charlie Beck, Los Angeles, California, Police Department
- Chief Richard S. Biehl, Dayton, Ohio, Police Department
- Chief Chris Burbank, Salt Lake City, Utah, Police Department
- Sheriff Mark C. Curran Jr., Lake County, Illinois, Sheriff's Office
- Sheriff Tony Estrada, Santa Cruz County, Arizona, Sheriff's Office
- Commissioner William B. Evans, Boston, Massachusetts, Police Department
- Sheriff Adrian Garcia, Harris County, Texas, Sheriff's Office
- Sheriff Marlin Gusman, New Orleans Parish, Louisiana, Sheriff's Office
- Chief James Hawkins, Garden City, Kansas, Police Department
- Chief Dwight Henninger, Vail, Colorado, Police Department
- Chief Michael C. Koval, Madison, Wisconsin, Police Department
- Chief Jose L. Lopez Sr., Durham, North Carolina, Police Department
- Sheriff Leon Lott, Richland County, South Carolina, Sheriff's Department
- Sheriff Bill McCarthy, Polk County, Iowa, Sheriff's Office
- Chief Roy W. Minter, Jr., Peoria, Arizona, Police Department
- Lieutenant Andy Norris, Tuscaloosa County, Alabama, Sheriff's Office
- Chief Kathleen O'Toole, Seattle, Washington, Police Department
- Commissioner Charles Ramsey, Philadelphia, Pennsylvania, Police Department
- Chief Greg Suhr, San Francisco, California, Police Department
- Chief Ron Teachman, South Bend, Indiana, Police Department
- Chief Michael Tupper, Marshalltown, Iowa, Police Department
- Sheriff John Urquhart, King County, Washington, Sheriff's Office
- Sheriff Lupe Valdez, Dallas County, Texas, Sheriff's Department
- Chief Roberto Villaseñor, Tucson, Arizona, Police Department
- Chief Robert White, Denver, Colorado, Police Department
- Sheriff Richard D. Wiles, El Paso County, Texas, Sheriff's Office

The following states joined an amicus brief filed with the district court in support of defendants:

- California, Connecticut, District of Columbia, Hawaii, Illinois, Iowa, Maryland, Massachusetts, New Mexico, New York, Oregon, Vermont, Washington

The following states have joined the lawsuit as plaintiffs, either as states or through their state representatives:

- Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Kansas, Louisiana, Maine, Michigan, Mississippi, Montana, Nebraska, Nevada, North Carolina, South Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, West Virginia, Wisconsin

From: Huppert, Susan
To: ["fcownie@mac.com"](mailto:fcownie@mac.com); [Cownie, Frank](#)
Subject: FW: The Future of Higher Education in the Des Moines Metro
Date: Monday, March 09, 2015 8:07:42 AM

Good morning Mayor Cownie,

I am not sure if you saw the forum being put on tomorrow morning but below is the announcement. I plan to go and if you want to ride with me, I would be happy to pick you up. It is an early one but an important topic and thought you might be interested.

Sue

240-0629

From: Wise, Phil [IDOE] [<mailto:Phil.Wise@iowa.gov>]
Sent: Thursday, March 05, 2015 12:46 PM
To: Bisignano, Tony [LEGIS]; Dearden, Dick [LEGIS]; McCoy, Matt [LEGIS]; Petersen, Janet [LEGIS]; Schneider, Charles [LEGIS]; Whitver, Jack [LEGIS]; Abdul-Samad, Ako [LEGIS]; Anderson, Marti [LEGIS]; Cownie, Peter [LEGIS]; Forbes, John [LEGIS]; Gaines, Ruth Ann [LEGIS]; Hagenow, Chris [LEGIS]; Highfill, Jake [LEGIS]; Hunter, Bruce [LEGIS]; Koester, Kevin [LEGIS]; Meyer, Brian [LEGIS]; Oldson, Joanne [LEGIS]; Olson, Rick [LEGIS]; Ourth, Scott [LEGIS]; Taylor, Rob [LEGIS]
Cc: Christian Zenti; hensley.chrissteve@gmail.com; Des Moines Independent Comm School District (BrdPres); director@desmoineswestsidechamber.org; Jean Jones; Jennifer Chittenden; Mary Bontrager; Huppert, Susan; Sadie Trytten; ssamuels@samuelsgroup.net; wsgray@dmgov.org
Subject: The Future of Higher Education in the Des Moines Metro

Dear Senator Bisignano, Senator Dearden, Senator McCoy, Senator Petersen, Senator Schneider, Senator Whitver, Representative Abdul-Samad, Representative Anderson, Representative Cownie, Representative Forbes, Representative Gaines, Representative Hagenow, Representative Highfill, Representative Hunter, Representative Koester, Representative Meyer, Representative Oldson, Representative Olson, Representative Ourth, and Representative Taylor:

As all of you know, the three Des Moines Chambers of Commerce jointly host panel discussions of issues important to their members and citizens of the Des Moines metro area. The gifting of AIB College of Business to the University of Iowa, and the announced creation of a Regents Regional Center at the campus on Fleur Drive, has raised important questions about the future of higher education in the Des Moines metro. To get answers and perspectives on that major development, higher education leaders have been invited to participate in a panel discussion of that future. As elected officials, we would be pleased to have you attend that discussion. Details of the event follow.

What: Panel Discussion of the Future of Higher Education in the Des Moines Metro
Who: Representatives of DMACC, Drake University, Grand View University, and the Iowa Board of Regents
When: Tuesday, March 10th from 7:30 to 8:30 a.m. (doors open at 7:00 a.m.)
Where: The Euclid Room at the Euclid Hy-Vee
2550 E. Euclid Ave.

The three Des Moines Chambers of Commerce hope you will be able to attend. There will be a complimentary breakfast. An RSVP would be greatly appreciated.

Phil Wise
Des Moines West Side Chamber, Board of Directors
Government Relations Committee, Chair

From: Elisabeth Buck
To: [Sanders, Scott E.](#); [Cownie, Frank](#); [Elisabeth Buck](#); [Thomas Ahart, Des Moines Public Schools](#); [Barr, Joshua V.](#); [Pablo.Ortega@dmschools.org](#); [Allyson Vukovich - DMPS](#); [Renee Miller](#); [frida.espinosa.cardenas](#)
Subject: FW: USCIS targeting refugees from Burma for fraud!
Date: Monday, February 26, 2018 3:27:40 PM

Our Burmese refugees are also being targeted. See below a message from Henny Ohr.

Elisabeth Buck | President

United Way of Central Iowa | 1111 Ninth Street, Des Moines, IA 50314

P 515-246-6501 | C 515-205-1375 | ebuck@unitedwaydm.org

www.unitedwaydm.org

From: Henny Ohr [<mailto:henny@embarciowa.org>]
Sent: Monday, February 26, 2018 2:53 AM
To: Elisabeth Buck <elis.buck@unitedwaydm.org>
Subject: USCIS targeting refugees from Burma for fraud!

Hi Lis,
I shared this disturbing news with Jennifer Racho at NWAf and she suggested I also share with you. We held an emergency info session this Saturday that was covered by WHO-TV.

<http://whotv.com/2018/02/24/attorney-gestapo-esque-letter-sent-to-several-burma-refugees-living-in-des-moines/>

We are trying to mobilize and organize quickly. If there is anything UW can do to help, please let me know

thanks, henny

From: Henny Ohr [<mailto:henny@embarciowa.org>]

Sent: Friday, February 23, 2018 11:12 AM

turns out burma refugees nationwide are receiving these letters without cause to root out “fraud” no one is entitled to interpreter or attorney and reasons for interview is without apparent cause. this is the latest from news:

A quick update from yesterday: one from Kentucky and several from Dallas went to the interview.

Some of the questions asked were:

- 1) name, birthday, parents' names,
- 2) date of arrival to Malaysia and when UN identification card was issued,
- 3) whether the person bought the UN identification card and case from someone else,
- 4) whether the person is planning to change name when applying for citizenship,
- 5) whether the person made up the refugee story or if it really happened.

In addition, some people in Dallas were given a choice: either get locked up in the US for 15-20 years, or go back to Burma.

the burden of proof seems to be on the family and it's difficult to prove. there is an extensive vetting process before they arrive and several have applied for citizenship.

Begin forwarded message:

On Feb 22, 2018, at 11:52 AM, Henny Ohr <henny@embarciowa.org> wrote:

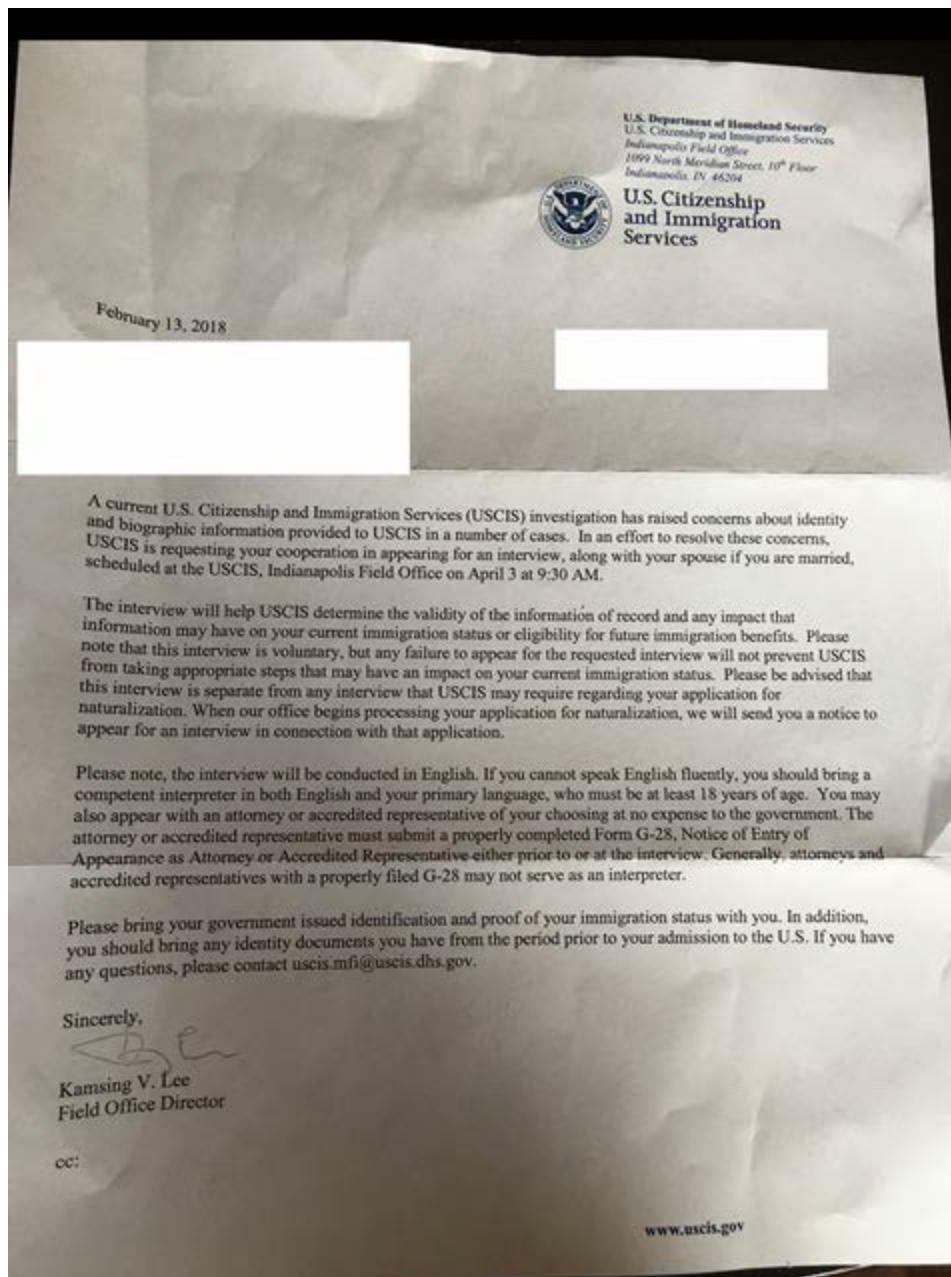
Team,

this letter from USCIS asking parents to travel to indiana is frightening, traumatizing and outrageous. i know some families in Waterloo have also received letters.

if you know anyone who received a similar letter, please get their name and contact information if they would like guidance as we learn more. all information is confidential. chris rottler (my husband at community lawyers of iowa) has reached out to the legal immigration community. we will reach out to our legislators.

below is a blurb you can share widely with the community:

Many very worried refugee families have contacted EMBARC regarding a letter they received from USCIS to go to their office in Indiana for an interview. This is deeply concerning. EMBARC will be holding an informational session with volunteer attorneys to talk through concerns this Saturday, February 24th at 1:00 pm at Polk County Riverplace. If you have any questions, please email henny@embarciowa.org.



From: [Westergaard, Linda C.](#)
To: [Cownie, Frank](#); [Coleman, Chris](#); [Gatto, Joe P.](#); [Gray, William S.](#); [Hensley, Christine L.](#); [boesendmia@aol.com](#); [josh.citizensformandelbaum@gmail.com](#); [Moore, Skip](#)
Subject: FW: Veteran Housing grant invitation
Date: Friday, December 01, 2017 11:29:48 AM
Attachments: [180 Degrees - VeteranWINS Invite.pptx](#)

I was asked to forward this on to you. It would be nice if we could have council presence at this event. Wells Fargo would like us to be there as would 180 Degrees.

Thank you,

Linda Westergaard
Ward 2 City Council Representative
4009 E. 23rd Street
Des Moines, Iowa 50317-4104
515-988-4288

lindaw@dmgov.org

From: John Knapp
Sent: Thursday, November 30, 2017 10:06 AM
To: Linda Westergaard <lindaw@bhhsfirstrealty.com>
Subject: Veteran Housing grant invitation

Linda,

I wanted to see if you had received this invitation to a grant check presentation to 180 Degrees from Wells Fargo. Can you help me get this to the other council members? The board of 180 Degrees would like members of the council to be present for the check presentation if possible.

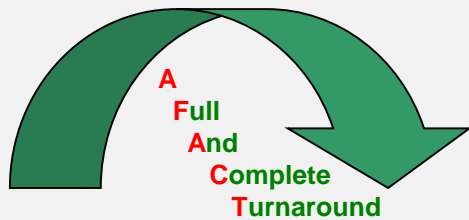
John R. Knapp
Iowa Realty Commercial
3501 Westown Parkway
West Des Moines, IA 50266
Direct (515) 453-5467
Fax (515) 453-5430
Cell (515) 778-8870

Email jknapp@iowarealtycommercial.com

Licensed in the State of Iowa

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180 Degrees



**You are cordially invited to celebrate
180 Degrees Transitional Veteran Housing
Organization and their winning of a \$40,000
VeteranWINS Grant from Wells Fargo**

Date: Wednesday, December 6, 2017

Time: Ceremony to start @ 2:00 PM

Location: 3650 Cottage Grove Des Moines, Iowa 50311

Program

2:00 – Tracy Jones, 180 Degrees Executive Director

2:10 – Special Guest Speaker

2:20– Jeff Chavannes, Wells Fargo VeteranWINS Program

2:25 – Check Presentation

2:30 – Photo Opportunity

If able, please stay for a tour of the facility and a small social gathering afterwards to learn more about 180 Degrees and its future expansion plans.

Please RSVP by Wednesday, November 29th to:

Tracy Jones

Executive Director

180 Degrees

Phone: 515-306-6457

E-mail: Tracyjones180@msn.com

From: Mark Phillips
To: angela.connolly@polkcountyiowa.gov; [Coleman, Chris](#); [Cownie, Frank](#); [Hensley, Christine L. \(External\)](#); [Warburton, Joyce M.](#); [Kristi Knous](#); ktrevillyan@wdm-ia.com; [Mark Wandro \(Mark.wandro@polkcountyiowa.gov\)](#); [Mayor Cownie](#); MSellers@unitedwaydm.org; Robert.Brownell@polkcountyiowa.gov; [Russ Trimble](#); sarai@dmreligious.org; [Tom Hadden \(tom.hadden@wdm.iowa.gov\)](mailto:Tom.Hadden@wdm.iowa.gov)
Cc: [Johansen, Chris M.](#); [Steve Quirk](#); [Matt Moeckl](#); [Toby O'Berry](#)
Subject: FW: Youth NOFA Open Mtg
Date: Tuesday, September 13, 2016 8:34:22 AM
Attachments: [Youth NOFA Agenda Sept 2016.doc](#)
[Youth Homelessness Demonstration Program Executive Summary.docx](#)
[YHDP-NOFA 2016.pdf](#)

Good morning. Yesterday in our board meeting Toby and I discussed the Youth NOFA. The open meeting is next week on Tuesday and attached you will find the following:

- Agenda
- Youth Notice of Funding Availability (NOFA) from HUD
- 1 page Summary of this opportunity

Please forward this on to anyone that is serving young adults in our community and would be an asset in creating a community wide process to serving this population.

We will address questions next week at the meeting. Thanks,

Mark K Phillips
Executive Director
Polk County Continuum of Care Board
2309 Euclid Ave
Des Moines, IA 50310

E: M.Phillips@pchsia.org

O: 515.402.4101

C: 515.314.1582

F: 515.243.8447

Follow us:

- Website: www.polkcococ.org
- Facebook: [facebook.com/polkcounycoc](https://www.facebook.com/polkcounycoc)
- Twitter: [@PCCOCB](https://twitter.com/PCCOCB)
- Membership to CoC: http://polkcococ.org/Meeting_Materials.html



Youth NOFA Open Meeting

September 20th, 2016

8:30 AM – 10:0 AM

IHYC—Youth Opportunity Center, 612 Locust Street

Agenda

- | | |
|------------|---|
| 5 minutes | Welcome and introductions |
| 30 minutes | Review the Youth NOFA Summary <ul style="list-style-type: none">• What has been done so far? |
| 30 minutes | Action steps <ul style="list-style-type: none">• Work team• Who else needs to in the room and on the team? |
| 25 minutes | Open items |
| Adjourn: | 10:00 AM |

Follow us:

- Facebook: facebook.com/polkcourtycoc
- Twitter: [@PCCOCB](https://twitter.com/PCCOCB)
- Website: <http://polkcococ.org/>
- Membership to CoC: http://polkcococ.org/Meeting_Materials.html

Youth Homelessness Demonstration Program (YHDP)

The Youth Homelessness Demonstration Program is a new HUD funded initiative to reduce the number of youth experiencing homelessness. This Demonstration Program will take place in 10 communities across the US and each community will receive at minimum \$1,000,000 up to \$15,000,000 in support of this initiative.

Key NOFA (Notice of Funding Availability) items:

- Application is due November 30th and must be submitted by the COC's Collaborative Applicant through www.grants.gov
- 10 communities will be selected in January 2017 with a project start date of Spring 2017
- This NOFA is for community selection only, the project application process will occur after the 10 communities are chosen. Once the 10 communities are identified:
 - COC's will have 6 months to submit a coordinated community plan and 6 months to address comments from HUD
 - During the planning period for the coordinated community plan, communities will be able to submit project applications for 30% of the grant award (minimum \$300,000)
 - Once the community plan is approved by HUD, the remaining 70% of the award will be available for use
- The grant term is 2 years and can be renewed annually thereafter within each local COC.
- Size of the grant award will be based on census data of DSM MSA Population for 10 to 24 year olds and the DSM MSA Poverty Rate for 12 to 24 year olds
 - $\$1,000,000 + [(Community\ Population\ age\ 10\ to\ 24 * Community\ Poverty\ Rate\ Age\ 12\ to\ 24) / Sum\ of\ above\ two\ factors\ for\ all\ 10\ communities * \$23,000,000]$
- Grant narrative is maximum of 30 pages
- Application Scoring Criteria:
 - Leadership Capacity 20 Points
 - Current Resource Capacity 5 Points
 - Community Need 10 Points
 - Capacity for Innovation 15 Points
 - Collaboration 20 Points
 - Financial Resources 10 Points
 - Data and Evaluation Capacity 20 Points
 - 100 Total Points

Requirement of the Demonstration Program:

- Must be a collaborative approach between all service providers and governmental agencies that support homeless youth.
- The Coordinated Community Plan must include input from a youth advisory board (YAB) and a local or state public child welfare agency (DHS). The Youth Advisory Board (YAB) must also review all project applications.
- Coordinated Community Plan must address 5 specific subpopulations:
 - 1) LGBTQ Youth
 - 2) Minors (under 18)
 - 3) Pregnant and parenting youth
 - 4) System-Involved Youth (Foster care or Juvenile Justice)
 - 5) Human Trafficking Victims
- All programs within this grant must incorporate Positive Youth Development (PYD) and Trauma Informed Care (TIC) models of housing and service delivery.



U.S. Department of Housing and Urban Development

Community Planning and Development

Youth Homelessness Demonstration Program

FR-6000-N-FR-6000-N-FR-6000-N-FR-6000-N-FR-6000-N-FR-6000-N-35

Application Due Date: 11/30/2016

Signature

Date

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U.S. Department of Housing and Urban Development

Program Office: Community Planning and Development
Funding Opportunity Title: Youth Homelessness Demonstration Program
Announcement Type: Initial
Funding Opportunity Number: FR-6000-N-FR-6000-N-FR-6000-N-FR-6000-N-FR-6000-N-35
Primary CFDA Number: 14.276
Due Date for Applications: 11/30/2016

For Further Information Contact: Please direct questions regarding the specific program requirements of this Program Notice of Funding Availability (NOFA) to the agency contact identified in Section VII. Please direct general questions regarding the FY2017 NOFAs to the Office of Strategic Planning and Management, Grants Management and Oversight Division, at AskGMO@hud.gov.

Additional Overview Information

Incorporation of the General Section. HUD publishes a General Section each fiscal year that contains requirements for all applicants to HUD's various competitive grant programs, including this NOFA. Applications must meet all of the requirements of the General Section in addition to the requirements of this NOFA to be considered and potentially receive funding. The full title of the General Section is the General Section to HUD's Fiscal Year 2016 Notice[s] of Funding Availability for Discretionary Programs. Copies are available at [Grants.gov](http://grants.gov) or HUD's [Funds Available](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/grants/fundsavail) page, http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/grants/fundsavail.

1. Participative Planning and Implementation. HUD encourages all applicants to HUD's competitive programs to ensure, where applicable, public decision making and meaningful participation throughout the visioning, development, and implementation of funded projects, by residents of affected areas and especially communities traditionally marginalized from planning processes. In seeking public participation, applicants and grantees must ensure that all communications are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 and, as applicable, the Americans with Disabilities Act. In addition Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) and Executive Order 13166 require that grantees take responsible steps to ensure meaningful access to services, programs, and activities by persons with Limited English Proficiency (LEP persons).

2. OMB Approval Number(s): 2506-0210

NOFA Highlights:

- HUD will select up to 10 communities to participate in the Youth Homelessness Demonstration Program (YHDP) to develop and execute a coordinated community approach to preventing and ending youth homelessness. Four of the 10 selected communities will be rural communities. [*Section I.A.I*]
- Only CoC Collaborative Applicants may apply to this NOFA [*Section III.A*]
- Applications are submitted through grants.gov, and are due by November 30, 2016
- Communities represented by the CoC Collaborative Applicant must include a youth advisory board, the local or state public child welfare agency, and a broad array of other partners [*Sections III.C.1, III.C.3.b, and V.A*]
- The rating and ranking criteria included in this NOFA will be used to competitively select the communities [*Section V.A*]
- The selection of the 10 communities will be announced in January of 2017 [*Section V.C*]

Selected Communities Will:

- Develop and implement a Coordinated Community Plan to prevent and end youth homelessness [*Section III.C.3.b*]
- Apply for project funding up to an amount between \$1 million and \$15 million per community, based on each community's youth population size and poverty rate, for a total demonstration amount of up to \$33 million [*Section II.C*]
- Request project funding on a rolling basis using a project application in the *e-snaps* grants management system beginning in early 2017 [*Appendix A*]
- Requests funding for all project types allowed under the CoC Program to support homeless and at risk youth, as well as innovative project types that may require a waiver of CoC Program requirements [*Appendix A and Appendix B*]
- Request funding for a 2-year grant term that will be eligible for renewal under the CoC Program, as long as the project meets statutory CoC Program requirements [*Section II.B*]
- Receive a dedicated team of technical assistance providers to advise the development and implementation of the Coordinated

- Participate in an evaluation that will inform the federal strategy for preventing and ending youth homelessness [Section I.A and VI.B.]

NOFA Priority

The purpose of the YHDP is to learn how communities can successfully approach the goal of preventing and ending youth homelessness by building comprehensive systems of care for young people rather than implementing individual or unconnected projects that serve this population. In order to effectively implement a system that addresses the needs of youth experiencing homelessness, Continuums of Care (CoCs) must understand the subgroups of unaccompanied youth – including pregnant and parenting, Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ), and minor age youth – experiencing homelessness and the unique challenges they face within their communities. Additionally, CoCs must ensure that the appropriate type of housing assistance and level of services that are effective in providing safe and stable housing are available within the community and must reach out and partner with a comprehensive set of traditional and non-traditional youth homelessness stakeholders that provide youth with resources and services, advocate for them, and set policy on their behalf. Finally, CoCs must incorporate the experiences of homeless or formerly homeless unaccompanied youth – which is vital to understanding the needs, strengths, and perspectives of the youth in the community – and incorporate those understandings into the YHDP coordinated community plan and awarded projects. All of this will require CoCs to use innovative practices to design better projects and strong comprehensive plans to prevent and end youth homelessness.

Background

In 2010, the United States Interagency Council on Homelessness (USICH) presented Opening Doors: The Federal Strategic Plan to Prevent and End Homelessness to the President and Congress, identifying youth as one of four special populations and articulating a goal of preventing and ending youth homelessness by 2020. A coordinated community approach lies at the heart of the strategies advocated by Opening Doors^[1]. By engaging in a system-wide crisis response, communities can better understand their system level needs and assets, plan for and allocate new and existing resources, prevent and quickly divert youth from homelessness, and identify, engage, and respond to the needs of youth experiencing homelessness. These concepts are described in the 2012 release of the Framework to End Youth Homelessness^[2], and Preventing and Ending Youth Homelessness: A Coordinated Community Response by USICH in December of 2015^[3]. The 2015 release included a “Preliminary Vision for a Community Response” and illustrates the general components believed necessary for each community to prevent and end youth homelessness. Federal partner agencies with a stake in preventing and ending youth homelessness, are working tirelessly together to build on that vision. This work together and a commitment to developing and supporting a coordinated community approach guides the Department of Housing and Urban Development’s (HUD) effort to prevent and end youth homelessness, and serves as the cornerstone value for the Youth Homelessness Demonstration.

[1] http://dev2.usich.gov/resources/uploads/asses_library/USICH_OpeningDoors_Amendment2015_FINAL.pdf

[2] <https://www.usich.gov/tools-for-action/framework-for-ending-youth-homelessness>

[3] https://www.usich.gov/resources/uploads/asset_library/Youth_Homelessness_Coordinated_Response.pdf

I. Funding Opportunity Description.

A. Program Description.

1. Purpose.

The goal of the YHDP is to support up to 10 communities, at least 4 of which will be rural, in the development and implementation of a coordinated community approach to preventing and ending youth homelessness, and sharing that experience with and mobilizing communities around the country toward the same end. The population to be served by this demonstration program is unaccompanied youth experiencing homelessness, including pregnant or parenting youth, where no member of the household is older than 24. The demonstration has five primary objectives:

1. **Build national momentum.** Motivate state and local homelessness stakeholders across the country to prevent and end youth homelessness by forming new partnerships, addressing system barriers, conducting needs assessments, testing promising strategies, and evaluating their outcomes through this NOFA, supportive policy briefs, consistent cross agency messaging, and substantial technical assistance material;
2. **Evaluate the coordinated community approach.** coordinated community approaches to preventing and ending youth homelessness, including local and state partnerships across sectors and other planning operations;
3. **Expand capacity.** Demonstration communities will expand their capacity to serve homeless unaccompanied youth, potentially piloting new models of assistance, and determining what array of interventions is necessary to serve the target population in their community.

4. **Evaluate performance measures.** Evaluate the use of performance measurement strategies designed to better measure youth outcomes and the connection between youth program outcomes and youth performance measures on overall system performance for the Continuum of Care (CoC);
5. **Establish a framework for federal program and TA collaboration.** Determine the most effective way for federal resources to interact within a state or local system to support a coordinated community approach to preventing and ending youth homelessness.

To meet these objectives, the YHDP makes use of the project implementation, technical assistance, and evaluation funding made available on December 18, 2015 through the Consolidated Appropriations Act, 2016 (Public Law 114-113), “the Act.” The act appropriated \$33 million to HUD “to implement projects to demonstrate how a comprehensive approach to serving homeless youth, age 24 and under, in up to 10 communities, including at least four rural communities, can dramatically reduce youth homelessness,” \$5 million to HUD “to provide technical assistance on youth homelessness, and collection, analysis, and reporting of data and performance measures under the comprehensive approaches to serve homeless youth, in addition to and in coordination with other technical assistance funds provided under this title,” and a further \$2.5 million to HUD “for homeless youth program evaluations conducted in partnership with the Department of Health and Human Services.”

This NOFA is for the selection of the communities and to alert each community of the amount of money available to them through the YHDP. The CoC's Collaborative Applicant is responsible for submitting the application for this NOFA.

This NOFA establishes the process and requirements for the selection of the communities and alerts each community of the maximum amount of funding available to them through the YHDP. The CoC's Collaborative Applicant is responsible for submitting the application for this NOFA, and if selected, the selected communities will then be able to apply for project funding via the project applicant. Projects will be expected to follow CoC Program requirements, unless a waiver is approved to a specific CoC Program requirement (see Appendices A and B for project application and waiver information).

HUD plans to support the community process described by this NOFA, including the community application process, with publicly available technical assistance resources. HUD will publish technical assistance material for the benefit of all communities in the form of online guidebooks, case studies, templates, and other technical assistance delivery vehicles throughout the duration of the demonstration, and will also reserve significant resources for direct technical assistance to the selected communities at the conclusion of this competition according to the process described in this NOFA. HUD will assign dedicated teams of technical assistance providers to assist selected communities in analyzing community strengths and needs, developing a coordinated community plan, implementing the plan, and then engaging in a process of continuous quality improvement. While the communities are engaged in developing and implementing their plans, HUD will coordinate a demonstration evaluation that will be published and made publicly available.

HUD will share outcomes and make resources publicly available as quickly as possible in order to accelerate efforts to prevent and end youth homelessness nationally. In addition, HUD, and to the extent possible its federal partners, will work to accelerate HUD's learning related to youth and the concepts of Housing First, assessment and prioritization, coordinated entry, risk and protective factors for youth homelessness, diversion from child welfare and systems of justice, success in education and employment, serving victims of violence including trafficking, LGBTQ youth, youth under the age of 18, and pregnant and parenting teens, and system performance measures. HUD recognizes that there are promising strategies concerning these concepts but limited evidence to support replication of best practices. Given the importance of advancing our understanding in this particular topic area, HUD is very interested in communities that will commit to focusing attention on these issues.

After the application submission deadline in November 2016, HUD will take 3 months to assess the applications and select communities (at which point “applicants” become “selected communities”). HUD will also allocate to each selected community an amount which may be awarded for projects selected through the process described in Appendix A. The amount allocated for each selected community will be equal to a minimum of \$1,000,000 plus a percentage of the remaining \$23,000,000 based on the percentage of all youth among all selected communities that reside in each selected community and the poverty rate of each community. It is important to note that the selected community may or may not be the entire geographical area of the CoC (see Section III.C.3.a. for target area selection information).

Once HUD announces the selected communities, the following timeline will apply:

- CoCs will have 6 months to submit a coordinated community plan, and up to 6 additional months to address comments from HUD.
- During plan development, applicants will have access to apply for projects on a rolling basis equivalent to the value of 30 percent of the total allocated to the community.
- The remaining 70 percent will become available once a coordinated community plan is approved by HUD – See Section III.C.3.b for more information.
- Finally, communities will be expected to fully participate in the national evaluation activities conducted by HUD beginning no earlier than the announcement of community selection.

2. Changes from Previous NOFA.

Not Applicable.

3. Definitions.

a. Eligibility Requirements – Eligibility requirements are those requirements that must be met for an application to be eligible for funding. Deficiencies in meeting an eligibility requirement may be categorized as either curable or non-curable.

b. Threshold Requirement – Threshold requirements are a category of eligibility requirements. A threshold requirement is a requirement that must be met in order for an application to be reviewed. Threshold requirements are not curable.

Threshold requirements are listed in Section III.C.1 of this Program NOFA.

Applicants must ensure their application package addresses all threshold requirements. Please check your application carefully!

c. Deficiency – Deficiencies are not the same as errors. Errors are never curable except as permitted under Section IV.D.4.

Deficiencies are items of missing or omitted information within a submitted application. Deficiencies typically involve missing documents, information on a form, or some other type of unsatisfied information requirement (e.g., an unsigned form, unchecked box, etc.). Depending on specific criteria, deficiencies may be either curable or non-curable.

d. Curable Deficiency – A curable deficiency is a specific type of deficiency that applicants may correct with timely action. To be curable the deficiency must:

- Not be a threshold requirement;
- Not influence how an applicant is ranked or scored versus other applicants; and
- Be remedied within the time frame specified in the notice of deficiency.

e. Non-Curable Deficiency – An applicant cannot correct a non-curable deficiency after the submission deadline. Non-curable deficiencies are deficiencies that if corrected would change an applicant's score or rank versus other applicants. Non-curable deficiencies may result in an application being marked ineligible, or otherwise adversely affect an application's score and final determination.

f. Collaborative Applicant - the eligible entity that has been designated by the CoC during the FY 2016 CoC Program Registration Process to apply for a grant for CoC planning funds on behalf of the CoC. The Collaborative Applicant must be the "Applicant" for each community applying for participation in the demonstration and if selected, represents the "selected community" during the demonstration and is the party responsible for meeting demonstration requirements. In cases where the CoC needed to change the Collaborative Applicant and that change was approved after this NOFA was published but before the deadline for submissions, that approved replacement Collaborative Applicant is the eligible applicant for this NOFA.

g. Community - Self-organized network of people in a defined geographic area with common agenda, cause, or interest, who collaborate by sharing ideas, information, and other resources. The community must be within geographic boundary of the CoC.

h. Continuum of Care (CoC) – the group organized to carry out the responsibilities required under 24 CFR 578 and that is composed of representatives of organizations, including nonprofit homeless providers, victim service providers, faith-based organizations, governments, businesses, advocates, public housing agencies, school districts, social service providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement, organizations that serve homeless and formerly homeless veterans, and homeless and formerly homeless persons to the extent these groups are represented within the geographic area and are available to participate.

i. Geographic Area - a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

j. Housing First - a model of assistance that prioritizes rapid placement and stabilization in permanent housing that does not have service participation requirements or preconditions (such as sobriety or a minimum income threshold). Transitional housing and supportive service only projects can be considered to be using a housing first model for the purposes of this NOFA if they operate with low-barriers, work to quickly move people into permanent housing, do not require participation in supportive services, and, for transitional housing projects, do not require any preconditions for moving into the transitional housing (e.g., sobriety or minimum income threshold).

k. Project Applicant – an eligible applicant as defined in section 578.3 of the CoC Program interim rule that is designated by the CoC to apply for assistance under the YHDP and is a private non-profit organization, State, local government, or instrumentality of State and local government.

l. Recipient - Recipient means an applicant that has signed a grant agreement with HUD.

m. Rural community – a county that:

- has no part of it within an area designated as a standard metropolitan statistical area (MSA) by the Office of Management and Budget; or
- is within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area and at least 75 percent of its population is located on U.S. Census blocks classified as non-urban; or
- is located in a State that has population density of less than 30 persons per square mile (as reported in the most recent

decennial census), and of which at least 1.25 percent of the total acreage of such State is under Federal jurisdiction, provided that no metropolitan city in such State is the sole beneficiary of the grant amounts awarded under 24 CFR 579.

n. Youth - Persons aged 24 and younger.

- Unaccompanied Youth - persons who are age 24 or younger, who are not part of a family with children, and who are not accompanied by their parent or guardian during their episode of homelessness. This also includes two or more youth age 24 or younger who are presenting together as a family without children.
- Pregnant or Parenting Youth- persons who are 24 and younger who are the parents or legal guardians of one or more children who are present with or sleeping in the same place as that youth parent, or who are pregnant.
- Transition Age Youth -- persons between age 18 and 24 who are transitioning from childhood to adulthood.

o. *Youth Advisory Board.* A group of youth (of at least 3 members), age 24 and younger, at least 2/3 of whom are homeless or formerly homeless, that are included in policy making decisions of the CoC, particularly on policies that relate to preventing and ending youth homelessness.

B. Authority.

The FY 2016 funds for the YHDP were authorized by the Consolidated and Further Continuing Appropriations Act, 2016 (Public Law 114-113, approved December 18, 2015) (the “FY 2016 HUD Appropriations Act). Projects awarded under the Youth Homelessness Demonstration Program (YHDP) may be eligible for renewal under the Continuum of Care (CoC) Program when the initial grant term expires. The CoC Program is authorized by subtitle C of title IV of the McKinney- Vento Homeless Assistance Act, (42 U.S.C. 11381–11389) (the Act), and the CoC Program regulations are found in 24 CFR part 578 (the CoC Program interim rule).

II. Award Information.

A. Available Funds.

HUD is making available approximately **\$33,000,000** through this NOFA for Youth Homelessness Demonstration Program.

Additional funds may become available for award under this NOFA as a result of HUD's efforts to recapture unused funds, use carryover funds, or because of the availability of additional appropriated funds. Use of these funds is subject to statutory constraints. All awards are subject to the applicable funding restrictions described in the General Section and to those contained in this NOFA.

B. Number of Awards.

HUD expects to make approximately 10 awards from the funds available under this NOFA.

A Collaborative Applicant can apply on behalf of more than one community - however, HUD will not select more than one community within the entire CoC’s geographic area.

C. Minimum/Maximum Award Information.

Each selected community will be eligible to apply to receive a minimum of \$1 million. There is no limit to the number of projects for which a community can apply. For example, a selected community could apply for \$1 million for one project or \$100,000 each for 10 projects.

The remaining appropriated funds will be made available to the selected communities based on a formula that accounts for the number of youth in each community ages 10 to 24. Each selected community will be able to apply for and be selected by HUD to receive awards for projects for up to 30 percent of their potential funding immediately after the announcement of the selected communities and the remaining balance will be available after HUD has approved a community’s coordinated community plan (See “Developing a Coordinated Community Plan” in Section III.C.3.b.). The maximum possible award is determined based on the communities that are selected according to the following formula:

Community Award = \$1,000,000 + [(Community Population Age 10 to 24 * Community Poverty Rate Age 12 to 24) ÷ (Sum of (Community Population Age 10 to 24 x Community Poverty Rate Age 12 to 24) for all 10 Communities) x \$23,000,000

(US Census data uses different age ranges for population and poverty rate.)

Estimated Total Funding:	\$33,000,000
Minimum Award Amount:	\$1,000,000 Per Budget Period
Maximum Award Amount:	\$15,000,000 Per Budget Period

D. Period of Performance.

Selected communities may apply on a rolling basis for project grants designed to implement the coordinated community plan to prevent and end youth homelessness immediately following the community selection announcement and up until August 1, 2018 or until such time as the community ceases to participate or the available funds have been depleted (whichever is earlier). Public Law No: 114-113 requires HUD to obligate YHDP funds by September 30, 2018. Obligated funds remain available for expenditure until September 30, 2023. Grant terms, and associated grant operations, may not extend beyond the availability of funds. Applicants must plan accordingly and only submit applications that can start operations in a timely manner with sufficient time to complete the post award process and the awarded grant term.

All grants for projects will be for a 2-year grant term, with the exception of CoC planning projects which will be for a one year grant term and are non-renewable. Projects may be eligible for 1 year renewal terms after the initial grant term expires beginning with the next CoC Program Competition. In the event that a community cannot successfully complete the development of a coordinated community plan or must otherwise withdraw from the demonstration, **HUD will reallocate the remaining balance to the other selected communities or to alternative communities if appropriate communities can be identified and sufficient funds are available**

Estimated Project Start Date: 04/03/2017

Estimated Project End Date: 04/02/2021

Length of Project Periods: Other

Length of Project Periods Explanation of Other: HUD will award projects for 2 year grant terms. These grants may then be eligible for renewal under the CoC Program Competition subject to the conditions of the Fiscal Year (FY) NOFA under which they apply for renewal. Planning projects are an exception; HUD will award them for a 1 year non-renewable grant term.

E. Type of Funding Instrument.

Funding Instrument Type: Grant

III. Eligibility Information.

A. Eligible Applicants.

State governments

County governments

City or township governments

Nonprofits having a 501(c)(3) status with the IRS, other than institutions of higher education

Community Selection application:

Available to Collaborative Applicants designated by CoCs registered through the FY 2016 CoC Program Registration process. The Collaborative Applicant can apply for any community located within its CoC. The Collaborative Applicant can also apply for multiple communities located within its CoC.

Project application:

Project applicants that are designated during the application process by the Collaborative Applicant are eligible to apply for grant fund as well as be subrecipients of grant funds. The Collaborative Applicant may apply for projects under this Demonstration as well. For-profit entities are not eligible to apply for grants or to be sub recipients of grant funds.

To be considered for funding, project applicants must complete the information required by HUD, in the manner required by HUD, and receive the approval of the CoC to apply for funding, as signed off on by the Collaborative Applicant.

This NOFA is for applying for community selection only. Project application will occur after communities have been selected requirements for applying for projects are detailed in Appendix A.

HUD does not award grants to individuals. HUD will also not evaluate applications from ineligible applicants.

As required in the Code of Federal Regulations (CFR) at 2 CFR 25.200 and 24 CFR Part 5 Subpart K, all applicants for financial assistance must have an active Data Universal Numbering System (DUNS) number (<http://fedgov.dnb.com/webform>) and have an active registration in the System for Award Management (SAM) (www.sam.gov) before submitting an application. Getting a DUNS number and completing SAM registration can take up to four weeks; therefore, applicants should start this process or check their status early.

See also Section IV.B for necessary form and content information.

B. Cost Sharing or Matching.

This Program requires an applicant to leverage resources through cost sharing or matching as described below.

24 CFR 578.73 provides the information regarding match requirements.

C. Other.

All applicants must comply with the following requirements, which may determine whether your application is reviewed or make your application ineligible for funding. Eligibility criteria for this competition include:

1. Threshold Requirements.

Applicants who fail to meet any of the following threshold eligibility requirements will be deemed ineligible. Applications from ineligible applicants will not be evaluated. See also Section I.A.3 Definitions.

a. Timely Submission of Applications – Applications submitted after the deadline stated within this NOFA and that do not meet the requirements of the grace period policy will be marked late. Late applications are deemed ineligible and will not be considered for funding. See also Section IV Application and Submission Information, part D.

b. Civil Rights Matters – Outstanding civil rights matters must be resolved prior to the application deadline.

(1) Applicants having any of the charges, cause determinations, lawsuits, or letters of findings referenced in subparagraphs (a) – (e) that have not been resolved to HUD's satisfaction before or on the application deadline date are ineligible for funding.

(a) Charges from HUD concerning a systemic violation of the Fair Housing Act or receipt of a cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of a substantially equivalent state or local fair housing law proscribing discrimination because of race, color, religion, sex, national origin, disability or familial status;

(b) Status as a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging a pattern or practice of discrimination or denial of rights to a group of persons raising an issue of general public importance pursuant to 42 U.S.C. 3614(a);

(c) Status as a defendant in any other lawsuit filed or joined by the Department of Justice alleging a pattern or practice or systemic violation of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, Title II of the Americans with Disabilities Act, or a claim under the False Claims Act related to fair housing, nondiscrimination, or civil rights generally including an alleged failure to affirmatively further fair housing;

(d) Receipt of a letter of findings identifying systemic noncompliance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974; or Title II of the Americans with Disabilities Act; or

(e) Receipt of a cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of provisions of a state or local law prohibiting discrimination in housing based on sexual orientation, gender identity, or lawful source of income.

(2) HUD will determine if actions to resolve the charge, cause determination, lawsuit, or letter of findings taken before the application deadline date are sufficient to resolve the matter. Examples of actions that may be considered sufficient to resolve the matter include, but are not limited to:

(a) Current compliance with a voluntary compliance agreement signed by all the parties;

(b) Current compliance with a HUD-approved conciliation agreement signed by all the parties;

(c) Current compliance with a conciliation agreement signed by all the parties and approved by the state governmental or local administrative agency with jurisdiction over the matter;

(d) Current compliance with a consent order or consent decree; or

(e) Current compliance with a final judicial ruling or administrative ruling or decision.

c. **Ineligible Applicants.** HUD will not consider an application from an ineligible applicant. Applications for community selection must be completed by a CoC's Collaborative Applicant. Project applications must be completed by an eligible project applicant or the Collaborative Applicant.

d. **Youth Advisory Board (YAB).** The CoC must confer with a YAB, or youth advisory committee, concerning the development of the community's application for the YHDP and the details therein. The YAB members must be youth age 24 and under, the YAB must have full membership or be a formal committee within the CoC, and the CoC must commit to including the YAB's members as participants in the review of the CoC's coordinated community plan to prevent and end youth homelessness. The Collaborative Applicant must attach a letter signed by an authorized representative from the YAB and the Collaborative Applicant confirming compliance with the requirements listed above. If the CoC does not currently have a YAB, it can create a YAB for the purposes of this NOFA.

e. **Public Child Welfare Agency (PCWA).** The CoC must include the state or local PCWA as a CoC member and must confer with the PCWA concerning the development of the community's application for the YHDP and the details herein. The PCWA is the governmental entity that has care, custody and responsibility for children in foster care and is responsible for the provision of services and support to youth who have left foster care after age 18 to age 21. The CoC must attach verification of the applicable state or local PCWA's membership in the CoC via a Memorandum of Understanding (MOU) between the agency and the CoC that outlines the PCWA's commitment to and participation in the YHDP. As applicable, the MOU or letter of support should include a list of the child welfare service providers under contract with the PCWA and their commitment and participation in the YHDP.

2. Statutory and Regulatory Requirements.

a. Compliance with Nondiscrimination and Related Requirements.

Compliance with Fair Housing and Civil Rights Laws.

Applicants and their prospective subrecipients must comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a), including, but not limited to, the Fair Housing Act; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Title II and Title III of the Americans with Disabilities Act of 1990; and Section 109 of the Housing and Community Development Act of 1974. Applicants, and their prospective subrecipients, who are conducting programs or activities within a state or local jurisdiction that has passed a law prohibiting discrimination in housing based upon sexual orientation or gender identity, or a law prohibiting discrimination in housing based on lawful source of income, must comply with the law(s) of the state or locality in which the program activities are conducted.

HUD notes that pregnant or parenting youth may not be excluded from service, because excluding families with children would violate the Fair Housing Act. Thus, any pregnant or parenting youth who otherwise meets the definition of youth must be served by the grantee without regard to the subpopulation it chooses to serve.

See Section V.C.1 of the FY 2016 General Section.

Affirmatively Furthering Fair Housing.

Section 808(e)(5) of the Fair Housing Act requires HUD to affirmatively further the purposes of the Fair Housing Act in its housing and urban development programs. Accordingly, HUD requires recipients of funds that are not specifically exempted to take affirmative steps to further fair housing. An applicant must discuss how it is going to carry out the proposed activities in a manner that affirmatively furthers fair housing in complete compliance with Section 808(e)(5) of the Fair Housing Act.

In addition, 24 CFR 578.93(c) requires recipients to implement its programs in a manner that affirmatively furthers fair housing, which means that the recipient must: (1) Affirmatively market their housing and supportive services to eligible persons regardless of race, color, national origin, religion, sex, age, familial status, or handicap who are least likely to apply in the absence of special outreach, and maintain records of those marketing activities; (2) Where a recipient encounters a condition or action that impedes fair housing choice for current or prospective program participants, provide such information to the jurisdiction that provided the certification of consistency with the Consolidated Plan; and (3) Provide program participants with information on rights and remedies available under applicable federal, State and local fair housing and civil rights laws.

b. HUD Agency Wide or Federal Government Wide Requirements.

(1) **Outstanding Delinquent Federal Debts** – It is HUD policy, consistent with the purposes and intent of 31 U.S.C. 3720B and 28 U.S.C. 3201(e), that applicants with outstanding delinquent federal debt will not be eligible to receive an award of funds, unless:

- (a) A negotiated repayment schedule is established and the repayment schedule is not delinquent, or
- (b) Other arrangements satisfactory to HUD are made prior to the award of funds by HUD. If satisfactory arrangements cannot be completed within 90 days of notification of selection, HUD will not make an award of funds to the applicant, and instead offer the award to the next eligible applicant. HUD may act earlier than the above stated 90 days to ensure, in HUD's determination, that the funds can be obligated in a timely manner. Applicants selected for funding, or awarded funds, must report any changes in status of current agreements covering federal debt. HUD may withhold funding, terminate an award, or seek other remedies from a grantee if a previously agreed-upon payment schedule has not been followed or a new agreement with the federal agency to which the debt is owed has not been signed.

(2) Pre-Award Accounting System Survey – HUD will not award or disburse funds to applicants that do not have a financial management system that meets federal standards. HUD may arrange for a pre-award survey of any such financial management system for applicants selected for award who have not previously received federal financial assistance, where HUD Program officials have reason to question whether a financial management system meets federal financial management standards, or for applicants considered high risk based upon past performance or financial management findings.

(3) Debarments and/or Suspensions – In accordance with 2 CFR part 2424, no award of federal funds may be made to debarred or suspended applicants, or those proposed to be debarred or suspended from doing business with the Federal Government.

(4) False Statements – A false statement in an application is grounds for denial or termination of an award and possible punishment, as provided in 18 U.S.C. 1001.

(5) Do Not Pay Website Review – As part of the Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012, in making funding determinations HUD will look up applicant information on the Federal website <http://www.donotpay.treas.gov/>. The Do Not Pay Portal is intended to prevent improper payments and can be used by HUD to ensure that applicants that receive funding do not owe funds to the federal government; are not on the Excluded Parties List System (EPLS); the List of Excluded Individuals/Entities List (LEIE); the Social Security Administration (SSA) Death Master File (DMF); or other federal databases that would provide adverse information regarding the applicant. HUD reserves the right to:

(a) Deny funding, or in the case of a renewal or continuing award, consider suspension or termination of an award immediately for cause,

(b) Require the removal of any key individual from association with management or implementation of the award, and

(c) Make appropriate provisions or revisions with respect to the method of payment or financial reporting requirements.

(6) Conducting Business in Accordance with Ethical Standards/Code of Conduct – Applicants are required to develop and maintain a written code of conduct in accordance with 2 CFR 200.112 and 200.318. Codes of conduct must prohibit real and apparent conflicts of interest that may arise among officers, employees, or agents; prohibit the solicitation and acceptance of gifts or gratuities by officers, employees, or agents for their personal benefit in excess of minimal value; and outline administrative and disciplinary actions available to remedy violations of such standards.

Pursuant to applicable Federal and HUD regulations, applicants must disclose in writing any potential conflict of interest and all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Before entering into an agreement with HUD, applicants selected to receive funding under a Program NOFA must submit an up-to-date copy of their code of conduct. Applicants with codes already on file with HUD do not need to resubmit a new code unless the information on file has changed. New or updated submissions must be dated and signed by the Executive Director, or Chair, or equivalent official, of the governing body of the organization. Applicants must also describe the methods to be used to ensure that all officers, employees, and agents are aware of and have agreed to adhere to the code of conduct.

(7) Conflict of Interest of Consultants or Technical Experts Assisting HUD – Consultants and technical experts who assist HUD in rating and ranking applications for funding under published FY 2016 Program NOFAs are subject to 18 U.S.C. 208, the federal criminal conflict-of-interest statute, and the Standards of Ethical Conduct for Employees of the Executive Branch regulation published at 5 CFR part 2635. As a result, consultants and technical experts who have assisted or plan to assist applicants with preparing applications for FY 2016 Program NOFAs may not serve on a selection panel and may not serve as a technical advisor to HUD. Anyone involved in rating and ranking FY 2016 Program NOFA applications, including departmental staff, experts and consultants must avoid conflicts of interest or the appearance of such conflicts. These individuals must also disclose to HUD's Office of General Counsel Ethics Law Division the following information, if applicable:

(a) How the selection or non-selection of any applicant under a FY 2016 Program NOFA will affect the individual's financial interests as provided in 18 U.S.C. 208, or

(b) How the application process involves a party with whom the individual has a covered relationship under 5 CFR 2635.502. The consultant or technical expert assisting HUD must disclose this information before participating in any matter regarding an FY 2016 program NOFA. Applicants with questions regarding these provisions or concerning a conflict of interest, please call the Office of General Counsel, Ethics Law Division, at (202) 708-3815 (this is not a toll-free number). The phone number above may also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Relay Service's teletype service at 1-800-877-8339.

(8) Prohibition Against Lobbying Activities – Applicants are subject to the provisions of Section 319 of Public Law 101-121, 31 U.S.C. 1352, (the Byrd Amendment) and 24 CFR part 87, which prohibit recipients of federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract grant, loan, or cooperative agreement. In addition, applicants must disclose, using Standard Form LLL (SFLLL), "Disclosure of Lobbying Activities," any funds, other than federally appropriated funds, that will be or have been used to influence federal employees, members of Congress, or congressional staff regarding specific grants or contracts. Federally-recognized Indian tribes and tribally

designated housing entities (TDHEs) established by federally-recognized Indian tribes as a result of the exercise of the tribe’s sovereign power are excluded from coverage of the Byrd Amendment, but state-recognized Indian tribes and TDHEs established only under state law shall comply with this requirement. Applicants must submit the SFLLL if they have used or intend to use non-federal funds for lobbying activities.

(9) Consistency with the Consolidated Plan and Analysis of Impediments (AI)/Assessment of Fair Housing – Certain competitive Programs require applications to contain a certification of consistency with a HUD-approved Consolidated Plan. This certification means that the proposed activities are consistent with the jurisdiction’s strategic plan, and the location of the proposed activities is consistent with the geographic areas specified in the Consolidated Plan. The Consolidated Plan also includes the jurisdiction’s certification to affirmatively further fair housing which means, among other requirements, that the jurisdiction has conducted an AI/Assessment of Fair Housing. If a program NOFA requires a certification of consistency with the Consolidated Plan and you fail to provide the certification, and you do not cure the omission as a technical deficiency, HUD will not fund the application. Under HUD’s regulations at 24 CFR 91.2(d), an applicant’s PHA Plan must include a certification by the appropriate state or local official that the PHA Plan is consistent with the applicable Consolidated Plan for the jurisdiction in which the PHA is located and must describe the manner in which the applicable contents of the PHA Plan are consistent with the Consolidated Plan. To the extent that a proposal funded under this NOFA is addressed or should be addressed in the PHA Plan, it must be certified to be consistent with the Consolidated Plan.

3. Program Specific Requirements.

a. Identifying a Target Community Area.

Applicants have the option of identifying the entire geographic area within the CoC as the Demonstration community or designating a smaller area that includes a single community or group of communities within the CoC’s geographic area as the Demonstration community. In addition, the CoC can designate the application as a **rural community application**, competing for the 4 reserved rural community selection availabilities. If a community decides to submit two applications, one for the rural communities within the CoC and one for the non-rural areas or the entire CoC, HUD will consider both applications independently but will only select one community per CoC. In general, HUD will select the highest scoring application of the two; however, HUD reserves the right to select the lower scoring application if there are no other qualifying applications in the competition group (rural or non-rural) or if the next qualifying application in that group is lower in quality by a significant degree.

In addition, HUD has determined that geographic diversity is an appropriate consideration in selecting communities for this Demonstration. To this end, HUD reserves the right to fund eligible communities with the highest total score in each of the 10 HUD regions. In making this determination, HUD will also consider the size of the overall population to ensure that urban, suburban, and rural communities are selected. Applicants are required to respond to the questions listed in Section V.A.1 regarding their proposed target area for the Demonstration. Eligibility as a **Rural Community** will be determined based on the geographic area selected in the SF-424 and youth population size and poverty rate will be verified using federal census data.

b. Develop a Coordinated Community Plan

A central requirement of the Demonstration is that each selected community will develop a coordinated community plan to prevent and end youth homelessness. HUD has designed the Demonstration to allow for up to 6 months of initial planning together with a significant level of direct HUD technical assistance and up to 6 months of additional time for HUD feedback and plan edits. The planning process is expected to lay the ground work for implementation and provide a framework for the various projects that the Collaborative Applicant will request HUD to fund within the selected community. The plan submission will also impact the availability of funding for selected communities, as HUD will only allow project applications of up to 30 percent of the selected community’s available award until a coordinated community plan has been submitted to and approved by HUD.

HUD will only approve of a coordinated community plan that meets the threshold criteria, including whether the plan addresses the mandatory structural components and key HUD principles listed, below:

Mandatory Structural Components of a Coordinated Community Plan

A coordinated community plan must include the following structural components:

- A statement of need concerning at risk and homeless unaccompanied and pregnant or parenting youth in the geographic area;
- A list of partners, and a description of their involvement that includes representation from the following stakeholder groups to the greatest extent possible:

CoC and ESG Program Recipients	Local and State Law Enforcement and Judges
Public Child Welfare Agencies	Early Childhood Development and Child Care Providers

Youth Advisory Boards	Landlords
Local and State Government	Public Housing Authorities
Local and State Educational Agencies	Institutions of Higher Education
Runaway and Homeless Youth Program Providers	Community Development Corporations
Non-Profit Youth Organizations	Affordable Housing Developers
Juvenile and Adult Corrections and Probation	Local Advocacy, Research, and Philanthropic Organizations
Health, Mental Health, and Substance Abuse Agencies	Privately Funded Homeless Organizations
WIOA Boards and Employment Agencies	

- A shared vision, list of goals, objectives, and actions steps, including which partners are responsible for each action step;
- A list of new projects, to be funded by HUD and other sources that will support the implementation of the coordinated community plan;
- A governance structure, including an organizational chart and decision making process;
- A plan for continuous quality improvement during the implementation of the coordinated community plan;
- A signature page that includes the signatures of official representatives of *at least* the following systems:
 - The Continuum of Care
 - Public Child Welfare Agency
 - Local Government Agency
 - Youth Advisory Board

HUD Principles to Be Addressed in the Coordinated Community Plan

In order to be approved by HUD, a coordinated community plan must address how the following principles will be incorporated into the community's overall approach to preventing and ending youth homelessness as well as the individual interventions that support such an approach.

- *USICH Youth Framework and the Four Core Outcomes* The coordinated community plan must demonstrate a commitment to the principles of the USICH Youth Framework to End Youth Homelessness published in 2012 and to its four core outcomes:
 1. **Stable housing** includes a safe and reliable place to call home;
 2. **Permanent connections** include ongoing attachments to families, communities, schools, and other positive social networks;
 3. **Education/employment** includes high performance in and completion of educational and training activities, especially for younger youth, and starting and maintaining adequate and stable employment, particularly for older youth;
 4. **Social-emotional well-being** includes the development of key competencies, attitudes, and behaviors that equip a young person to succeed across multiple domains of daily life, including school, work, relationships, and community; *and*
- *Special Populations*. USICH, together with its partner agencies, has identified several special populations that are especially vulnerable to homelessness and which have been shown to experience homelessness, including pathways to homelessness, in ways that are distinct from the general population of youth. For these vulnerable and often overrepresented young people, there is a need for identification methods, infrastructure considerations, housing and service-delivery that are specific to their needs. The coordinated community plan must identify and address the local impact of homelessness on these subpopulations and specifically address how the system will meet the needs of lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth; minors (under the age of 18), pregnant and parenting youth; youth involved with juvenile justice and foster care systems; and victims of sexual trafficking and exploitation; *and*
- *Positive Youth Development (PYD)* [\[1\]](#) and *Trauma Informed Care (TIC)* [\[2\]](#). Both PYD and TIC are accepted best practices in housing and service delivery for youth and include principles and service frameworks endorsed by many branches of the federal government, including HUD, the US Department of Health and Human Services (HHS), and the US Department of Education (Ed). The coordinated community plan must address how PYD and TIC will be incorporated into all aspects of the youth crisis response system; *and*
- *Family engagement*. HUD believes that the best outcome for young people is to never have to engage with crisis response resources. Further, HUD believes that the best diversion and intervention strategy is to engage families, whenever appropriate, through community partnerships with organizations such as child welfare agencies, schools, youth providers, and other community human services and homeless services providers. The coordinated community plan must address family engagement strategies and services designed to strengthen, stabilize, and/or reunify families. Potential services include family counseling, conflict resolution, parenting supports, relative or kinship caregiver resources, targeted substance abuse and mental health

treatment, etc.; *and*

- *Immediate access to housing with no preconditions*: Housing is a cornerstone for meeting a multitude of basic needs necessary for success. Young people should be provided with rapid access to safe, secure and stable housing that meets their needs as quickly as possible, without the condition that they are ‘ready’ for housing. The coordinated community plan must address how all youth will be offered immediate access to safe, secure and stable housing with no preconditions; *and*
- *Youth choice*: The capacity for self-determination may be a critical factor in obtaining many positive outcomes for Transition Age Youth (Carter, Lane, Pierson, & Stang, 2008), [3] and is closely related to the principles of PYD. Consistent with federal youth policy, allowing youth to exercise self-determination is a youth centered approach that values youths’ expressed needs, self-awareness, and community knowledge. This youth-centered approach emphasizes youth choice in terms of the kind of housing youth need and the extent and nature of supports and services they access, and promotes presenting alternative options for youth who avoid programs with barriers like sobriety or abstinence. The coordinated community plan must address how youth choice will be integrated into all aspects of the youth crisis response system; *and*
- *Individualized and client--driven supports*: The coordinated community plan must acknowledge that the needs of the young people to be served will be unique. Housing and support packages that help prevent and end homelessness among youth must recognize and respond to individual differences across individuals in order to serve them appropriately and efficiently. Communities must design the system flexibly in order to accommodate individuals with both high and low service needs, as well as the need for short-term or long-term supports. The coordinated community plan must address how the youth crisis response system will provide individualized and client driven supports; *and*
- *Social and community integration*: The goal of youth homelessness services should be a successful transition to adulthood, including the successful integration into a community as a positive contributing community member. To accomplish this requires the community to provide socially supportive engagement and the opportunity for youth to participate in meaningful community activities; [4] *and*
- *Coordinated entry*. Coordinated entry processes are necessary components of a high functioning crisis response system and must be developed intentionally to incorporate youth. The coordinated community plan must address how the CoC will ensure that the coordinated entry process is youth appropriate.

Plan Submission, HUD Review, and Release of Full Funding

The coordinated community plan must be submitted electronically to YouthDemo@hud.gov no later than 6 months after announcement of the selected communities. HUD will review each plan and provide feedback within 4 weeks of submission. HUD reserves the right to reject a plan and require resubmission if the plan does not meet the requirements described above. Upon rejection, the applicant will be allowed to resubmit as many times as is necessary to obtain approval until 12 months from announcement of the selected communities. Before plan approval, communities will only be able to apply for 30 percent of their available funds for projects. Once a plan has been approved by HUD, communities may submit project applications for the remaining 70 percent of their available funds.

If HUD has not approved a plan received before the deadline of 12 months after the announcement of the selected communities, the selected community will lose access to all of its remaining funding. Funding that has already been obligated for projects will continue to be available for those projects only.

[1] <http://www.rhyttac.net/communitys/default/files/resources/PYD%20Tip%20Sheet.pdf#sthash.t2aPPzW1.dpuf>

[2] <http://www.samhsa.gov/nctic/trauma-interventions>

[3] Carter, E. W., Lane, K. L., Pierson, M. R., & Stang, K. K. (2008). Promoting Self-Determination for Transition Age Youth: Views of High School General and Special Educators. *Exceptional Children*, 75(1), 55-70. Retrieved from https://kuscholarworks.ku.edu/bitstream/handle/1808/10974/Lane_Promoting%20Self%20Determination.pdf?sequence=1&isAllowed

[4] <http://www.feantsaresearch.org/IMG/pdf/think-piece-1-4.pdf>;

4. Criteria for Beneficiaries.

N/A

IV. Application and Submission Information.

A. Obtaining an Application Package

An electronic copy of the Application Package and Application Instructions for this NOFA can be downloaded from Grants.gov at <http://www.grants.gov/applicants/apply-for-grants.html>. Except for Continuum of Care applications, or unless an applicant received a waiver for good cause, all applications must be submitted electronically via Grants.gov. The Continuum of Care application is submitted through HUD's e-snaps system.

An applicant demonstrating good cause may request a waiver from the requirement for electronic submission. For example, a lack of available Internet access in the geographic area in which the applicant's business offices are located. Applicants that cannot submit their applications electronically and must seek a waiver of the electronic grant submission requirements must submit a waiver request so that the request is received at least 15 days before the application deadline. If HUD waives the requirement, HUD must receive your paper application before the deadline of this NOFA. To request a waiver and receive a paper copy of the application materials, you should contact:

Ebony Rankin

Email: YouthDemo@hud.gov

US Department of Housing and Urban Development

Office of Special Needs Assistance Programs

451 7th Street SW

Washington, DC 20410

Applicants requesting a waiver should submit their waiver requests via e-mail to YouthDemo@hud.gov. The subject line should contain the name of the applicant and 'Request for Waiver of Electronic Submission for Youth Demo'.

B. Content and Form of Application Submission.

To ensure that the correct Application Package and Application Instructions are used, applicants must verify that the CFDA Number and CFDA Description on the first page of the Application Package downloaded from Grants.gov, as well as the Funding Opportunity Title, and the Funding Opportunity Number match the Program and NOFA to which they are applying. Applications will only be considered for the competition indicated in box 11, 12, and 13 on the SF-424 submitted in the application.

1. Content

Forms for your package include the forms outlined below:

Forms / Assurances / Certifications	Submission Requirement	Notes / Description
SF-LLL, Disclosure of Lobbying Activities		
SF-424, Application for Federal Assistance		
HUD Applicant Recipient Disclosure Report (HUD) 2880 Applicant/Recipient Disclosure/Update Report	HUD will provide instructions to grantees on how the form is to be submitted.	HUD will provide instructions to grantees on how the form is to be submitted.
Acknowledgment of Application Receipt (HUD2993), if applicable	This form is applicable only to applications submitted on paper, following receipt of a waiver of electronic submission.	This form is not required but is available for applicants who want confirmation that their hard-copy application was received by HUD. The form must be submitted with the application, in accordance with the application submission instructions included in the waiver of electronic submission.

Additionally, your complete application must include the following narratives and non-form attachments.

- Narrative responses to the following questions:
 - Applicants are required to respond to the following questions regarding their proposed target area for the demonstration program. Applicants must indicate:
 - Whether you are requesting participation as a rural community in the YHDP through this application.
 - Whether you are applying as a geographic area smaller than the entire CoC. If so, provide a brief description of the geographic area and justification for the decision to apply for a geographic area smaller than the entire CoC.
 - The total community population in between the ages of 10 and 24 within the geographic area, based on current US census data.
- Narrative responses to the rating factors in Section V.A.1
- Youth Advisory Board agreement as described in Sections III.C.1.d and V.A.1 under Collaboration - please name the attachment "Youth Advisory Board Agreement"
- PCWA agreement as described in Sections III.C.1.e and V.A.1 under Collaboration - please name the attachment "PCWA Agreement"
- Description of the YHDP team as described in Section V.A.1 under Leadership Capacity - please name the attachment "YHDP Team"
- Youth System Map as described in Section V.A.1 under Capacity for Innovation - please name the attachment "Youth System Map"
- CoC Homelessness Program agreement as described in Section V.A.1 under Collaboration - please name the attachment "CoC Homelessness Program Agreement"
- Local Government Agency agreement as described in Section V.A.1 under Collaboration - please name the attachment "Local Government Agency Agreement"
- State or Local Education Agency agreement as described in Section V.A.1 under Collaboration - please name the attachment "State (or Local) Education Agency"
- Runaway and Homeless Youth Program agreement as described in Section V.A.1 under Collaboration - please name the attachment "Runaway and Homeless Youth Program"
- Funding letter(s) of commitment for the YHDP planning process as described in Section V.A.1 under Financial Resources - please name the attachment "Funding Letter of Commitment - [Name of Source]"
- The HUD Applicant Recipient Disclosure Report (HUD 2880) can be found here: <http://portal.hud.gov/hudportal/documents/huddoc?id=2880.pdf>. The form should be completed and sent with the application via grants.gov.

2. Format and Form.

Narratives and other attachments to your application must follow the following format guidelines.

The application will be comprised of narrative exhibits and required attachments. The narratives will respond to thresholds, rating factors, and other criteria in the NOFA as indicated below. **Applicants should number their narrative responses to correspond to the numbering in Section V.A.1.** The narrative will be a maximum of 30 pages and needs to comply with the following format:

- Double-space your narrative exhibit pages. Single-spaced pages will be counted as two pages;
- Use 8-1/2 x 11-inch paper;
- All margins should be approximately one inch. If any margin is smaller than 1/2 inch, the page will be counted as two pages;
- Use 12-point, Times New Roman font;
- Any pages marked as sub-pages (e.g., with numbers and letters such as 25A, 25B, 25C), will be treated as separate pages;
- If a section is not applicable, indicate "N/A" so that there is a clear indication to HUD (do not just leave the section blank);
- No more than one page of text may be placed on one sheet of paper; i.e., you may not shrink pages to get two or more on a page. Shrunk pages, or pages where a minimized/reduced font are used, will be counted as multiple pages;
- Do not format your narrative exhibits in columns. Pages with text in columns will be counted as two pages;
- Any tables included in the narrative exhibits of the application must also be double spaced or they will be counted twice;
- All pages should be numbered. HUD recommends that applicants consecutively number the pages of the Attachments section to ensure proper assembly of their application if printed;
- Attachments will not count toward the 30 page maximum.

There is no minimum length required for narratives. HUD will review only the first 30 pages of narrative (not including attachments). Any responses after 30 pages will not be considered for scoring for this competition.

C. System for Award Management (SAM) and Dun & Bradstreet Universal Numbering System (DUNS) Number.

1. SAM Registration Requirement.

Applicants must be registered with SAM before submitting their application. In addition, applicants must continue to maintain an active SAM registration with current information at all times during which they have an active Federal award or an application or plan under consideration by HUD.

2. DUNS Number Requirement.

Applicants must provide a valid DUNS number in their application. DUNS numbers may be obtained for free at <http://fedgov.dnb.com/webform>.

D. Application Submission Dates and Times.

The application deadline is 11:59:59 p.m. Eastern time on **11/30/2016**. Applications must be received no later than the deadline.

Submit your application to Grants.gov unless a waiver has been issued allowing you to submit your application in paper form or you are applying for the Continuum of Care program. The Continuum of Care application is submitted through HUD's e-snaps system. Instructions for submitting your application to Grants.gov are contained within the Application Package you downloaded from Grants.gov. Instructions for submitting your paper application will be contained in the waiver of electronic submission.

Your application must be both **received and validated** by Grants.gov. Your application is "received" when Grants.gov provides you a confirmation of receipt and an application tracking number. **If you do not see this confirmation and tracking number, your application has not been received.**

After your application has been received, your application still must be validated by Grants.gov. During this process, your application may be "validated" or "rejected with errors." To know whether your application was rejected with errors and the reason(s) why, you must log into Grants.gov, select "Applicants" from the top navigation, and select "Track my application" from the drop-down list. If the status is "rejected with errors," you have the option to correct the error(s) and resubmit your application before the Grace Period ends. **If your application was "rejected with errors" and you do not correct these errors, Grants.gov will not send your application to HUD, and HUD will not review your application.** If your status is "validated" your application will be forwarded to HUD by Grants.gov.

1. Amending or Resubmitting an Application.

Before the submission deadline, applicants who choose to amend an application that has been validated by Grants.gov may resubmit a revised application containing the new or changed material. The resubmitted application must be received by the applicable deadline.

2. Grace Period for Grants.gov Submissions.

If an application is received by Grants.gov before the deadline, but is rejected with errors, applicants have a grace period of 24 hours beyond the application deadline to submit a corrected application that is received and validated by Grants.gov. Any application submitted during the grace period that does not meet the criteria above will not be considered for funding. There is no grace period for paper applications.

3. Late Applications.

An application received after the Program NOFA deadline date that does not meet the requirements of the grace period policy will be marked late, and will not be considered for funding.

4. Corrections to Deficient Applications.

Except as provided by the electronic submission grace period described in this notice, HUD may not consider any unsolicited information that applicants may want to provide after the application deadline. (Refer to 24 CFR part 4, subpart B.) In addition, HUD may not seek clarification of items or responses that improve the substantive quality of an applicant's response to any rating factors or which correct deficiencies which are in whole or part of a rating factor, including items that impact bonus points. HUD may contact the applicant to clarify other items in its application. In order not to unreasonably exclude applications from being rated and ranked in situations where there are curable deficiencies, HUD will notify applicants of each technical deficiency and will do so on a uniform basis.

If HUD finds a curable deficiency in an application, HUD will notify the applicant by email describing the clarification or technical deficiency. HUD will send an email to the person designated in item 8F of the SF424 and to the person listed as the authorized representative in item 21 of the SF424. Both email notifications will be sent from HUD with confirmation of delivery receipt requested. The email notifications will be the official notification of the need to cure a technical deficiency. It is the

responsibility of applicants to provide accurate email addresses for receipt of these notifications and to monitor their email accounts to determine whether a cure letter has been received. The applicant must carefully review the request for cure of a technical deficiency and must provide the response in accordance with the instructions contained in the deficiency notification.

Clarifications or corrections of technical deficiencies must be received by HUD within the time limits specified in the notification. In no case shall the time allowed to correct deficiencies exceed 14 calendar days or be less than 48 hours from the date of the email notification. The start of the cure period will be the date stamp on the email HUD sends to the applicant. If the deficiency cure deadline date falls on a Saturday, Sunday, federal holiday, or other day when HUD's Headquarters offices in Washington, DC, are closed, then the applicant's correction must be received on the next day that is not a Saturday, Sunday, or federal holiday, or other day when the HUD's Headquarters offices in Washington, DC, are closed.

Curable deficiency items must be submitted via email addressed to ApplicationSupport@hud.gov. When submitting technical deficiency cure items you must enter "Technical Cure" plus the Grants.gov application tracking number in the subject line of the email (e.g., Subject: Technical Cure - GRANT123456). If this information is not included, HUD will not be able to match the response to the application under review and the application may therefore be rejected due to the deficiency.

Corrections to a paper application should be sent in accordance with and to the address indicated in the notification of deficiency. HUD will treat a paper application submitted in accordance with a waiver of electronic application that contains the wrong DUNS number as having a technical deficiency. Failure to correct the deficiency and meet the requirement to have a DUNS number and active registration in SAM will render the application ineligible for funding.

E. Intergovernmental Review.

This program is not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

F. Funding Restrictions.

Not Applicable

Indirect Cost Rate

Indirect Cost Rate: No restrictions, applicants may use their negotiated rate or the *de Minimis* rate (10% of Modified Total Direct Costs).

G. Other Submission Requirements.

1. Discrepancies between the NOFA on Grants.gov and Other Documents.

The Program NOFA posted at the Grants.gov website is the official document HUD uses to solicit applications. Applicants are advised to review their application submission against the requirements in the posted Program NOFA. If there is a discrepancy between the Program NOFA posted on Grants.gov and other information provided in any other copy or version or supporting documentation, the posted Program NOFA located at www.Grants.gov prevails. If discrepancies are found, please notify HUD immediately by calling the program contact listed in the Program NOFA. HUD will post any corrections or changes to a Program NOFA on the Grants.gov website. Applicants who enroll an email address at the application download page will receive an e-mail alert from Grants.gov in the event the opportunity is changed.

2. Application Certifications and Assurances.

Applicants signing the SF424 cover page either through electronic submission or in paper copy submission (for those granted a waiver) affirm that the certifications and assurances associated with the application are material representations of the facts upon which HUD will rely when making an award to the applicant. If it is later determined that the signatory to the application submission knowingly made a false certification or assurance or did not have the authority to make a legally binding commitment for the applicant, the applicant may be subject to criminal prosecution, and HUD may terminate the award to the applicant organization or pursue other available remedies. Each applicant is responsible for including the correct certifications and assurances with its application submission, including those applicable to all applicants, those applicable only to federally-recognized Indian tribes, and those applicable to applicants other than federally-recognized Indian tribes. All program-specific certifications and assurances are included in the program Instructions Download on Grants.gov.

3. Lead Based Paint Requirements

When providing housing assistance funding for purchase, lease, support services, operation, or work that may disturb painted surfaces, of pre-1978 housing, you must comply with the lead-based paint evaluation and hazard reduction requirements of HUD's lead-based paint rules (Lead Disclosure; and Lead Safe Housing (24 CFR part 35)), and EPA's lead-based paint rules (e.g., Repair, Renovation and Painting; Pre-Renovation Education; and Lead Training and Certification (40 CFR part 745)).

4. Indirect Cost Rate (ICR)

If you are a governmental organization or agency that receives more than \$35 million in federal funding, you are required to request an Indirect Cost Rate from your cognizant agency (2 CFR 200 Appendix VII). If you have not requested an indirect cost rate or have not received a negotiated indirect cost rate, you may not claim indirect costs until you receive a negotiated rate.

Non-governmental organizations: If your organization has never had an indirect cost rate and wishes to use the *de minimis* rate, your application's budget narrative must clearly state you intend to use the *de minimis* 10% of Modified Total Direct Costs (MTDC). If you are using a negotiated indirect cost rate, your application must clearly state the approved rate and distribution base and include a letter or other documentation from the cognizant agency showing the approved rate.

Governmental organizations: If your organization has a negotiated indirect cost rate, your application's budget narrative must include the rate and a letter or other documentation from the cognizant agency showing the negotiated rate. If your organization has prepared and maintains documentation supporting an indirect rate proposal but has not negotiated approval of the rate, your application's budget narrative must include the rate and applicable distribution base. State and local government departments that have never negotiated indirect cost rates with the Federal government and receive less than \$35 million in direct Federal funding per year may use the 10% *de minimis* indirect cost rate, and must keep the documentation of this decision on file. Federally recognized Indian tribes that have never negotiated an indirect cost rate with the Federal government may also use the 10% *de minimis* rate and must keep the documentation of this decision on file.

V. Application Review Information.

A. Review Criteria.

1. Rating Factors

Points are assigned for seven rating factors: Leadership Capacity, Current Resource Capacity, Community Need, Capacity for Innovation, Collaboration, Financial Resources, and Data and Evaluation Capacity. Applications will be evaluated based on responses to all narratives. The table below outlines the selection criteria by rating factor with the points that may be awarded for each out of a possible 100 total points.

<u>Rating Factor</u>	<u>Points</u>
Leadership Capacity	20
Current Resource Capacity	5
Community Need	10
Capacity for Innovation	15
Collaboration	20
Financial Resources	10
Data and Evaluation Capacity	20

Leadership Capacity	Maximum Points: 20
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HUD will award up to 20 points to applicants that demonstrate they have the necessary leadership in place to effectively coordinate the development of a coordinated community plan to prevent and end youth homelessness. Applicants must:

1. Demonstrate that the CoC has addressed a similar systematic challenge related to homelessness. Examples can include the CoC's efforts to prevent and end veteran's homelessness, adoption of a comprehensive coordinated entry processes, and other innovative community-wide and cross-sector initiatives.
2. Identify the proposed YHDP lead agency. The narrative must include:
 - 2a. The name of the proposed YHDP lead agency
 - 2b. The type of organization
 - 2c. The staff member, including the position of the staff member who will lead the YHDP. The lead staff member should have a position with enough authority to make critical decisions
 - 2d. Whether the lead agency will dedicate a full time position to lead the YHDP

2e. A description of the experience of the lead agency in any other initiatives designed to prevent and end youth homelessness.

Also, the applicant must attach a description of the proposed YHDP team, including names, organization affiliation, agency titles, and the roles each person will play.

3. Demonstrate how the CoC structure will support the lead agency. The applicant must clearly identify the names of committees (and approximate number of members) within the CoC that will be involved in the planning and implementation of a coordinated community approach to prevent and end youth homelessness, each committee objective(s) and youth relevant task(s).
4. Demonstrate how the CoC includes direct youth participation, either through a youth advisory board or youth participation in committee meetings or planning and feedback events. The applicant must clearly describe the extent to which the CoC solicits and receives information from youth regarding youth homelessness.
5. Demonstrate the CoC's willingness and ability to engage youth providers that are not currently active participants in the CoC. The applicant must clearly describe the CoC's plan to engage participants.
6. Demonstrate the CoC plans to engage other entities who are not currently working on youth homelessness that will be essential in developing and implementing a coordinated community approach to preventing and ending youth homelessness.

Current Resource Capacity

Maximum Points: 5

HUD will award up to 5 points to applicants based on the extent to which the CoC is currently making progress towards preventing and ending homelessness among unaccompanied and pregnant and parenting youth. Applicants must:

1. Describe the crisis response system at the community level using the chart below. The chart should include interventions and mainstream resources serving unaccompanied or pregnant and parenting homeless youth and youth at risk of homelessness that are currently operating in the community. The list of required fields and the descriptions of those fields are below:

Organization	Organization Type	Funding Source(s)	Type of Intervention	Type and Scale of Housing	Type of Service(s) Offered	Youth Focused?	Subpopulations	Methodologies

Organization. Enter the name of the organization providing the resource.

Organization type. Indicate whether the organization is a public agency, private not for profit organization, or private for profit organization.

Funding Source. Indicate the primary funding source or sources used to sustain the intervention. If the origin of the funding source is federal but the intervention applies through a local competition or organization, list the federal funding source.

Type of intervention. Include any intervention that serves these youth. Below are some examples of interventions that can be included:

Street outreach	Permanent supportive housing
Drop in center	Other permanent housing
Emergency shelter or short term crisis residential program	Employment training
Host home program	Educational Training
Family engagement and reunification interventions	Health, Mental Health, and Substance Abuse agencies
Transitional housing	Legal support
Rapid rehousing	Food and basic needs support
Prevention services	Early Childhood Education and services

Type and scale of housing. If housing is included in the intervention, indicate the number and type of units available to project participants (Barracks, Dormitory, shared or private rooms, Shared housing, Single Room Occupancy (SRO) units, Clustered apartments, Scattered-site apartments (including efficiencies), Single family homes/townhouses/duplexes). If housing is not included, enter **N/A**.

Type of services offered. If services are offered, briefly list the services regularly provided to project participants. Do not include partner organizations that project participants have access to – list those interventions separately. If services are not offered, enter **N/A**.

Youth Focused? Enter **Yes** if the intervention focuses exclusively on youth or has special capacity to serve youth even though it admits persons who are older than 24. Enter **No** if the intervention serves all persons, including youth, and does not have special capacity to serve youth.

Subpopulation. Enter the subpopulations from the list below that are either targeted for the intervention or for which the intervention has special capacity:

LGBTQ youth	Former foster youth
Youth with special needs or disabilities	Victims of trafficking, domestic violence, and other forms of violence and abuse
Pregnant or parenting youth	Justice involved youth
Chronically homeless youth	Minors (under age 18)

Methodologies. Indicate whether the intervention operates according to any or all of the following methodologies and models: Positive Youth Development, Trauma Informed Care, and Housing First. The applicant can include other methodologies and models not listed.

Community Need

Maximum Points: 10

HUD will award up to 10 points to applicants that can demonstrate high need in the community based on the number and needs of the community's homeless youth. Applicants must:

1. Indicate whether a youth specific homelessness needs assessment was completed within the CoC at any point before the submission of this application. If a youth specific homelessness needs assessment was completed, the Collaborative Applicant must answer Question 2; if a youth specific homelessness needs assessment was not completed, the Collaborative Applicant does not have to answer Question 2.
2. Describe the most recent youth homelessness needs assessment conducted by the CoC, the narrative must include the following:
 - 2a. The methodology or methodologies used to conduct the assessment;
 - 2b. From what specific youth systems, organizations and agencies the needs assessment originated (i.e. CoC providers, school districts, foster care, juvenile justice, etc.), including the name of the lead and partnering agencies or organizations;
 - 2c. The scope of the assessment including the geography, types of providers, and types of housing units and services covered within your CoC;
 - 2d. A description of the youth targeted including a typology of youth based on characteristics that the CoC used to define or characterize youth; and
 - 2e. An explanation of the key findings from the youth homelessness needs assessment, including, the number and types of youth appropriate housing units and the number of youth.
3. Demonstrate the CoC's ability to collect and report data on sheltered and unsheltered homeless youth during the 2016 PIT count. The narrative must include the following:
 - 3a. Number of unaccompanied youth (24 or younger) identified in the 2016 sheltered PIT count.
 - 3b. Number of parenting youth (24 or younger) identified in the 2016 sheltered PIT count.
 - 3c. Number of unaccompanied youth (24 or younger) identified in the 2016 unsheltered PIT count (or in 2015 if there was no unsheltered 2016 count).
 - 3d. Number of parenting youth (24 or younger) identified in the 2016 unsheltered PIT count (or in 2015 if there was no unsheltered 2016 count).
 - 3e. Indicate whether your CoC did the following:

3e1. Conducted a youth specific PIT count at the same time as the rest of the CoC's 2016 PIT count activities, or included youth-specific activities within the implementation of the CoC's 2016 PIT count;

3e2. Integrated counting strategies targeted to finding and accurately identifying and engaging youth into the CoC's 2016 PIT count activities; or

3e3. Conducted a youth PIT count separate from the regular CoC 2016 PIT count time line. Answer Yes or No, and if Yes to any of the three questions above, include answers to 3e4 and 3e5; if No, skip Questions 3e4 and 3e5 and go on to Question 3f.

3e4. Describe the methodology used for the youth-specific portion of the count, the separate youth count, or the youth-appropriate changes made to the PIT count including survey questions that are not required in HUD's 2016 HIC and PIT Count Notice.

3e5. Identify data collected that was not required by HUD and describe how these additional data were or will be used locally to better understand youth homelessness.

3f. Number of unaccompanied homeless youth reported by the CoC's local education agencies to the state education agency and submitted to the Department of Education's EdFacts system in the most recent complete year for which the data is available.

3g. The factors that are currently contributing to youth homelessness in the community, including the methodology used to identify which factors are most prominent. Your response should describe how factors have been identified at the community level and not how individual factors are identified on a case-by-case basis.

Capacity for Innovation

Maximum Points: 15

HUD will award up to 15 points to applicants based on the CoC's capacity to engage in the innovative systems change behaviors that will be essential for successfully participating in the Demonstration. Applicants must:

1. Describe an experience where the CoC successfully adopted a new broad reaching methodology or enacted a major system-wide change in behavior.
2. Describe an experience where one or more youth homelessness providers in the community adopted a new innovation or system. Include the motivation for the change, the challenges experienced and whether the adoption was successful.
3. Indicate whether the CoC currently operates any rapid rehousing models for youth or any permanent supportive housing for youth that use a Housing First model. If the CoC has rapid rehousing or permanent supportive housing models for youth, describe the community's experience with the relevant models.
4. Describe interventions that are not currently operating in the CoC that the community wishes to pursue. Include in your response the barriers that currently prevent you from implementing the interventions.
5. In order to be successful in the YHPD, communities must be willing to question existing models and test new methodologies. Describe your willingness and the willingness of the youth homelessness stakeholder community to engage in new project models and methodologies (i.e. creating new projects during the CoC program competition, creating new youth projects outside of the CoC program using a model currently not eligible in the CoC program).

Applicants must attach a youth system map, a visual representation of the local youth crisis response system, to submit with the application. Applicants are encouraged to be creative and should represent the systems, projects, people, and resources with which youth interact and how youth navigate through the many different spaces within your community, hopefully on their way to safe and stable housing. You may only submit one map that should be on one side of a physical sheet of paper or one digital page. It can be any physical or digital size, but HUD will only consider one page and will not consider multiple maps. Create a map of your system even if your community lacks critical components of a youth system. If you include aspirational elements that have not yet been implemented, clearly mark those parts of your system map that have not yet been developed. The map must include the Youth Advisory Board.

Collaboration

Maximum Points: 20

HUD will award 20 points to applicants that can demonstrate strong current community wide partnerships within the CoC that are working to prevent and end youth homelessness. Applicants must:

1. Describe the CoC's current written plan or strategy to prevent and end youth homelessness (if a part of a plan to prevent and end all forms of homelessness, to get maximum points under this criteria there must be a dedicated section or a set of youth-specific strategies and objectives). The narrative should include the organizations or agencies that helped to develop, signed, or adopted the plan.
2. Demonstrate how the CoC is working with the prepopulated stakeholders indicated in the following chart to prevent and end

youth homelessness in the community by completing the table below – the applicant can add as many additional stakeholders as needed. If there are no Runaway and Homeless Youth Providers in the community enter **N/A** in all fields for that row.

Type of Stakeholder	Name of Stakeholder	CoC Member?	Describe the Collaboration	Formal Agreement	Demonstration Participation
CoC/ESG Homelessness Program					
Child Welfare Agency					
Youth-Led Advisory Group					
Local Government Agency					
Local Education Agency or State Education Agency					
Runaway and Homeless Youth Program					

Type of stakeholder. In addition to the 6 prepopulated stakeholder types, indicate the type of stakeholder according to the following list:

Privately Funded Homeless Organizations	Local and State Law Enforcement
Public Housing Authorities	Faith-based institutions
WIOA Boards and Employment Agencies	Landlords
Juvenile and Adult Corrections	Early Childhood Development and Child Care Providers
Nonprofit Youth Organizations	Institutions of Higher Education
Health, Mental Health, and Substance Abuse Agencies	Community Development Corporations
Affordable Housing Developers	Local Advocacy, Research, and Philanthropic Organizations

Name of Stakeholder. Enter the stakeholder name – i.e. the name of the organization, agency, department, coalition, school, or business, etc.

CoC Member? Enter **Yes** if the stakeholder is a formal member of the CoC. Enter **No** if the stakeholder is not a formal member of the CoC, even if the stakeholder occasionally comes to meetings that are open to the public.

Describe the collaboration. Describe the collaboration or partnership activities that the CoC and the stakeholder are engaged in, including how long the collaboration has existed, and the specific actions for which each partner in the collaboration is responsible.

Formal Agreement. Indicate whether the CoC has a MOU or other type of formal agreement with the listed stakeholder.

Demonstration Participation. Describe the extent to which the partner will participate in the YHPD – e.g. provide housing, conduct or fund needs analysis, strategic planning lead facilitator, provide supportive services, act as an access point for

coordinated entry, etc.

3. Indicate whether the Coordinated Entry Process incorporates youth. If the Coordinated Entry Process incorporates youth, the Collaborative Applicant must answer Questions 3a-3d; if the Coordinated Entry Process does not incorporate youth the Collaborative Applicant does not answer Questions 3a-3d.

3a. Indicate whether there is a separate coordinated entry access for unaccompanied youth or whether access points are designed for all persons presenting for assistance.

3b. Describe how youth are prioritized within the coordinated entry process, including factors used to prioritize youth or subpopulations of youth.

3c. Indicate which of the CoC and ESG funded resources are available to youth through the coordinated entry process.

3d. Describe the extent to which all other youth homelessness and at-risk providers and other stakeholders providing services to homeless and at risk youth (including PCWAs and other mainstream resource providers) are integrated into the coordinated entry process.

4. Describe the system-level discharge strategy for child welfare (foster care), juvenile and adult justice, and institutions of mental and physical health. The narrative can include the CoC's discharge policy and the discharge policy of the four institutions above. If the CoC does not have a discharge policy, describe how the CoC is working at a systems-level to prevent youth from being discharged from these institutions into homelessness.

5. Describe the role of PCWAs in serving homeless children under 18 and in serving homeless youth 18-24.

Financial Resources

Maximum Points: 10

HUD will award 10 points to applicants based on the CoC's ability to appropriately fund the development of a coordinated community plan and operate a system in their community. Applicants must:

1. Demonstrate how the CoC will obtain additional funding, other than HUD technical assistance (TA), to support the planning process for the Demonstration. The explanation must contain the following:

- The name and type of stakeholder providing planning funds. (The applicant must attach a letter of commitment from the stakeholder);
- Amount of funds available;
- Expenditure restrictions; and
- Fund availability timeline

2. Describe the CoC's proposed 6 month budget for developing a coordinated community plan to prevent and end youth homelessness.

Data and Evaluation Capacity

Maximum Points: 20

HUD will award 20 points to applicants that can demonstrate the existence of a functioning HMIS that facilitates in the collection of information on homelessness using residential and other homeless services and effective performance measures. The applicant must:

1. Indicate the percentage of all types of homeless beds, excluding beds provided by victim service providers, that currently participates in HMIS.

2. Indicate the percentage of all types of youth beds, excluding beds provided by victim service providers that are covered in HMIS, regardless of funding source.

3. Describe how the CoC actively recruits new homeless projects to HMIS for youth-dedicated projects.

4. Describe how the CoC supports the transition of new homeless projects to HMIS, including financial resources, technical resources, and training

5. Indicate whether the CoC met all HUD data reporting requirements in the past 12 months, including the submission of PIT and Housing Inventory data into the HDX. If the CoC has not met all data reporting requirements, explain why the CoC was unable to submit data accurately and on time.

6. Indicate whether the CoC submitted AHAR table shells to HUD and if those AHAR table shells were accepted.

7. In addition to gathering youth data in HMIS, indicate whether the CoC gather youth data from other sources (i.e., education, juvenile justice, child welfare, etc). If the CoC does gather youth data from other sources, please describe the data collected, the system(s) the data is collected from and the system(s) in which the data is stored.

8. Describe the performance measures the CoC has implemented throughout all of its homelessness assistance programs. The

description should include:

- The target data point and universe group for each measure.
- How the data necessary to determine performance is initially collected and reported
- The local evaluation/monitoring process. Describe how the CoC monitors the performance of its youth providers. The description should include:
 - Monitoring criteria
 - Frequency of monitoring
 - Process by which the CoC provides feedback regarding monitoring to providers
 - How the CoC supports providers with identified issues to improve their performance

9. Demonstrate how the CoC has used data, either data regarding the composition of the local homeless youth population or the effectiveness of various interventions for serving homeless youth, in developing a strategy to prevent and end youth homelessness.

10. If selected as a YHDP community, describe your proposed demonstration outcome measures and how your community would define success.

2. NOFA Priorities.

HUD encourages applicants for funding to undertake programs and projects that contribute to HUD's NOFA Priorities. Applicants that undertake activities that result in achievement of specific NOFA Priorities listed below are eligible to receive priority points in the rating of their application. These points will be awarded only if the application otherwise meets or exceeds the Program's minimum fundable score based on the rating factors of this NOFA.

Promote Health and Housing Stability of Vulnerable Populations

3. Bonus Points.

In support of certain inter-agency initiatives, HUD awards bonus points to projects where the preponderance of work will occur in a designated zone, community or region. **These points will be awarded only if the application otherwise meets or exceeds the Program's minimum fundable score based on the rating factors of this NOFA.**

Bonus points are not available for this program.

B. Reviews and Selection Process.

1. Past Performance

In evaluating applications for funding HUD will take into account an applicant's past performance in managing funds, including, but not limited to: the ability to account for funds appropriately; the timely use of funds received from HUD or other federal, state, or local programs; the timely submission and quality of reports submitted to HUD; meeting program requirements; meeting performance targets as established in Logic Models or other performance evaluation tools approved as part of the grant agreement; the timelines for completion of activities and receipt of promised matching or leveraged funds; and the number of persons to be served or targeted for assistance. Before making a Federal award, HUD is required by 31 U.S.C. 3321 and 41 U.S.C. 2313 note to review information available through any OMB-designated repositories of government-wide eligibility qualification or financial integrity information, such as Federal Awardee Performance and Integrity Information System (FAPIIS), Dun and Bradstreet, and "Do Not Pay." HUD may consider other public sources such as newspapers, Inspector General or Government Accountability Office reports or findings, or hotline or other complaints that have been proven to have merit. In evaluating past performance, HUD may deduct points from the rating score or establish threshold levels as specified under the Factors for Award in the Program NOFAs. Each Program NOFA will specify how past performance will be rated.

2. Integrity

HUD evaluates the integrity of the applicant as reflected in government-wide websites, information in HUD's files, the federal Do Not Pay portal, public information and information received during HUD's Name Check Review process. If this integrity evaluation results in an adverse finding, HUD reserves the right to take any of the remedies provided in Section III.C.4.a.5, Do Not Pay website Review.

3. Review Process. HUD staff, which may be assisted by staff from other federal agencies with experience related to homeless youth, coordinated community approaches to preventing and ending youth homelessness, and/or evidence-based interventions will review applications in two phases:

Phase 1: Threshold Eligibility Requirements. The application will be reviewed to determine whether it meets the threshold eligibility requirements in Section III.C.1 of this NOFA. Applicants who fail to meet all of the threshold eligibility requirements will be deemed ineligible. Applications from ineligible applicants will not be evaluated. Applications that do not

meet the threshold requirements are automatically ineligible for funding.

Phase 2: Application Scoring. If the applicant meets all threshold requirements, the application will be reviewed and scored using the selection criteria outlined in Section V.A.1 of this NOFA. After individual reviewers assign a score, each application will be paneled with an additional reviewer for a final score.

4. Selection Process

Ranked Order. Once final scores have been assigned, applications will be listed in ranked order. The amount awarded to applications will be determined according to the factors described in Section V.A.1 of this NOFA.

Selection of Successful Applicants. In addition to applicants' rank, the reviewer panel will also consider the geographic areas of the demonstration communities and different types of developed human settlements (urban, suburban, and rural). HUD reserves the right to limit the number of awards to no more than one community per CoC geographic area. HUD will make the final determination of selected communities.

5. Funding Decisions. Funding decisions will be made on project applications as described in Appendix A. In determining the amount that will be available to a selected community, HUD will take into consideration the amount of funds available; the applicant's current organizational capacity, where and when required, as presented in the application, including, among other things, the number, quality, and experience of their key personnel and the final score assigned to the application.

C. Anticipated Announcement and Award Dates.

HUD anticipates announcing community selections under this NOFA approximately 3 months after the application due date and project application awards approximately 1 month after application submission.

VI. Award Administration Information.

A. Award Notices.

Following the evaluation process HUD will notify successful applicants of their selection for funding. HUD will also notify all other applicants, whose applications were received by the deadline, that have not been chosen for award. Notifications will be sent by email, delivery receipt requested, to the person designated in item 8F of the SF424 and to the person listed as authorized representative in item 21 of the SF424.

B. Administrative, National and Department Policy Requirements.

For this NOFA, the following requirements apply:

Participation in a HUD-Sponsored Program Evaluation.

As a condition of the receipt of financial assistance under a Program NOFA, all successful applicants will be required to cooperate with all HUD staff, contractors, or designated grantees performing research or evaluation studies funded by HUD.

Environmental Requirements.

See Appendix A, Section IV, Other Requirements N. Environmental Requirements for information on the environmental review procedures required during the project evaluation process.

OMB Administrative Requirements and Cost Principles.

Unless excepted under 24 CFR chapters I through IX, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, set forth in 2 CFR part 200, shall apply to Federal Awards made by the Department of Housing and Urban Development to non-Federal entities.

Safeguarding Resident/Client Files.

In maintaining resident and client files, funding recipients shall comply with the Privacy Act of 1974 (Privacy Act), the agency rules and regulations issued under the Privacy Act, and observe state and local laws concerning the disclosure of records that pertain to individuals. Further, recipients are required to comply with the Privacy Act in the design, development, or operation of any system of records on individuals and take reasonable measures to ensure that resident and client files are safeguarded, including when reviewing, printing, or copying client files.

Compliance with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L.109-282) (Transparency Act), as amended.

Prime Grant Awardee Reporting. Prime recipients of HUD's financial assistance are required to report certain subawards in the Federal Funding Accountability and Transparency Act Subaward System (FSRS) website located at www.fsrs.gov or its successor system for all prime awards listed on the FSRS website. Prime financial assistance awardees receiving funds directly from HUD are required to report subawards and executive compensation information both for the prime award and subaward recipients, including awards made as pass-through awards or awards to vendors. For reportable subawards, if executive compensation reporting is required and subaward recipients' executive compensation is reported through the SAM system, the prime recipient is not required to report this information. The reporting of award and subaward information is in accordance with the requirements of the Transparency Act, as amended by section 6202 of Public Law 110-252, and by section 3 of Public Law 113-101.

C. Reporting.

1. Race and Ethnicity Data Reporting Form. HUD requires grantees that provide HUD-funded program benefits to individuals or families to report data on the race and ethnicity of those individuals receiving such benefits. Grantees that provide benefits to individuals during the period of performance, whether directly or through subrecipients or contractors, must report the data using the Race and Ethnic Data Reporting Form found on Grants.gov. The form is a data collection based on the standards published by OMB on August 13, 2002.

2. In addition to the reporting requirements in 24 CFR part 200, the recipient must collect and report data on its use of CoC funds in an Annual Performance Report (APR), as well as in any additional reports as and when required by HUD. This includes all projects awarded to the selected communities under the YHPD.

Please direct questions regarding specific reporting requirements to the point of contact listed in Section VII below.

D. Debriefing.

For a period of at least 120 days, beginning 30 days after the awards for a Program NOFA are publicly announced, HUD will provide to a requesting applicant a debriefing related to its application. A request for debriefing must be made in writing or by email by the authorized official whose signature appears on the SF424 or by his or her successor in office, and be submitted to the person, organization, or email address identified as the contact under the section entitled Agency Contact(s) in the Program NOFA. Information provided during a debriefing may include the final score the applicant received for each rating factor, final evaluator comments for each rating factor, and the final assessment indicating the basis upon which assistance was provided or denied.

VII. Agency Contact(s).

HUD staff will be available to provide clarification on the content of this NOFA. Please note that HUD staff cannot assist applicants in preparing their applications.

Questions regarding specific program requirements for this NOFA should be directed to the point of contact listed below.

Ebony Rankin

YouthDemo@hud.gov

Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Relay Service at 800-877-8339.

VIII. Other Information.

Paperwork Reduction Act Statement. The information collection requirements in this this notice have been approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C.3501-3520). In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid OMB control number. Each Program NOFA will identify its applicable OMB control number unless its collection of information is excluded from these requirements under 5 CFR part 1320.

A Finding of No Significant Impact (FONSI) with respect to the environment has been made for this NOFA in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for inspection at HUD's Funds Available web page at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/grants/fundsavail.

Appendix.

- Appendix A - Program Project Requirements
- Appendix B - Waiver Instructions

From: Jeb Brugmann
To: [Cownie, Frank](#)
Subject: FW: draft ByLaw amendments
Date: Tuesday, October 06, 2015 12:14:15 PM
Attachments: [ICLEI USA Bylaws 2012 -with draft amendments- jb5oct15.doc](#)

From: Jeb Brugmann [mailto:jeb@jebbrugmann.com]
Sent: October 6, 2015 11:49 AM
To: 'Valerie Brown' <valbrown@aol.com>; 'Pegeen Hanrahan' <pegeenhanrahan@aol.com>; Pam O'Connor (pam.oconnor.samo@gmail.com) <pam.oconnor.samo@gmail.com>; Harvey Ruvin <hr10109000@aol.com>; Frank Cownie <fcownie@mac.com>; 'Michael Schmitz' <michael.schmitz@iclei.org>
Cc: 'Monica Gilchrist' <monica.gilchrist@iclei.org>
Subject: draft ByLaw amendments
Importance: High

Dear fellow ICLEI USA Board Members,

At the last Executive Committee meeting we reviewed the status of Board operations and concluded that it was time to consider a simplification of our governing structure. As you know, we now have a 3-tiered structure—Board, Executive Committee, and Policy Council—plus a need to coordinate with the REXCOM. In practice, the REXCOM has been playing the role of the Policy Council. The latter has not met for some while. As well, the work of the Board has been largely managed by the Executive Committee, leaving the Board with its Annual Meeting functions.

The attached ByLaws draft with amendments is provided as a straw horse only, around which we can deliberate the options. You will note the following:

- The Executive Committee is eliminated, transferring those powers to a smaller Board.
- The Policy Council is eliminated, transferring its intended function to a 'Regional Policy Council,' which in practice can be the REXCOM. The only proposed caveat is that the ICLEI USA Board Chair is automatically a member of the Regional Policy Council, to ensure a proper linkage and accountability between the two. Among other benefits, this can also prevent ICLEI USA from creating its own committee with a similar function and presence as the REXCOM in national and international fora.
- The offices of the Board President and Treasurer are collapsed into one office of President/Treasurer, given that we have not had both offices fully functioning at the same time. The Chair assumes the responsibilities of the President in the latter's absence.

Those are the main proposals, just to frame up our discussion. I look forward to hearing your direct input at the next Board meeting. I also look forward to the election of a new Board and Officers, reflecting the nomination process in the ByLaws.

Very best regards,

Jeb
(as Board President)

From: Alcantara, Elias
To: [Cownie, Frank](#)
Subject: Fw: The President Nominates Judge Merrick Garland to the Supreme Court of the United States
Date: Thursday, March 17, 2016 2:09:18 PM
Attachments: [image004.png](#)
[image001.png](#)
[Garland Biography.pdf](#)

Mayor,

It was great catching up. As promised, below and attached is information on the President's nomination.

Best,
Elias

Elias Alcantara
Associate Director
Office of Intergovernmental Affairs, The White House
Office: 202-456-3963 Cell: 202-596-4137
Email: ealcantara@who.eop.gov

From: Patel, Rohan
Sent: Wednesday, March 16, 2016 12:31 PM
To: Patel, Rohan
Cc: Cummings, Bridget; Alcantara, Elias; White House Office of Intergovernmental Affairs
Subject: The President Nominates Judge Merrick Garland to the Supreme Court of the United States



Dear Local Leaders,

In a Rose Garden ceremony today at the White House, President Obama announced his nominee to the Supreme Court of the United States, Merrick Garland. Below and attached you'll find additional information on today's announcement as well as some of the social media posts we are putting out today.

Please send any statements of support or social media posts to bcummings@who.eop.gov and localgovernment@who.eop.gov.

Thank you,

Rohan Patel, Elias Alcantara, and Bridget Cummings
White House Office of Intergovernmental Affairs

Background:

- Today, the President fulfilled his constitutional responsibility by nominating to the Supreme Court an eminently qualified American who deserves a fair hearing, and an up-or-down vote.
- Chief Judge Merrick Garland has more federal judicial experience than any other Supreme Court nominee in history. No one is more qualified to immediately serve on the Supreme Court.
- He is one of the best appellate judges in the country – a brilliant, meticulous jurist with a knack for building consensus. That has been true ever since his strong bipartisan confirmation in 1997 to the D.C. Circuit, where he has served as Chief Judge for over three years.
- This approach has earned him bipartisan praise throughout his career – he was confirmed with majority support from both parties; Senator Orrin Hatch described him as “a consensus nominee,” and Chief Justice Roberts explained “anytime Judge Garland disagrees, you know you’re in a difficult area.”
- Garland has distinguished himself as a jurist who plays it straight and decides every case based on what the law requires. In his own words: “The role of the court is to apply the law to the facts of the case before it – not to legislate, not to arrogate to itself the executive power, not to hand down advisory opinions on the issues of the day.”
- Garland has dedicated his life to public service, choosing to serve his country and

take on some of the most difficult and significant anti-terrorism cases in our nation's history.

- In the wake of the Oklahoma City bombing, Garland led the investigation and prosecution that ultimately brought Timothy McVeigh to justice – working with federal agents, rescue workers, local officials and others.
- Garland also kept in close touch with Oklahoma City victims and their families throughout the case, and for several years afterwards as well.
- Beyond the courtroom, Garland is a committed mentor. In addition to mentoring hundreds of law clerks throughout their careers and encouraging them to pursue public service, Garland has for almost twenty years, tutored second, third and fourth grade students in Northeast DC in reading and math.
- Garland is a dedicated family man. He and his wife of nearly 30 years, Lynn, have two daughters, Becky and Jessie. The family enjoys skiing, hiking and canoeing, and together they have visited many of America's national parks.

In addition, for your reference:

Sen. Hatch: “[Obama] could easily name Merrick Garland, who is a fine man.”
[NewsMax, [3/13/16](#)]

Reuters: “Senator Orrin Hatch said he had known [Garland], seen as a leading contender for the Supreme Court, for years and that he would be ‘a consensus nominee.’” [Reuters, [5/6/10](#)]

Sen. Leahy: “What Senators ought to be talking about is the fact that Merrick Garland is a superb nominee. He has been seen as a superb nominee by Republicans and Democrats alike, by all writers in this field. At a time when some seem to want people who are not qualified, here is a person with qualifications that are among the best I have ever seen.” [Congressional Record, [3/19/97](#)]

Chief Justice John G. Roberts: “Any time Judge Garland disagrees, you know you're in a difficult area. And the function of his dissent, to make us focus on what we were deciding and to make sure that we felt we were doing the right thing, I think was well-served. But Judge Garland disagreed, and so it's obviously, to me, a

case on which reasonable judges can disagree.” [Transcript: Day Three of the Roberts Confirmation Hearings, [9/14/05](#)]

Iowa Gov. Terry Branstad: “I am writing to ask your support and assistance in the confirmation process for a second cousin... Merrick Garland has had a distinguished legal career.” [Letter from Gov. Terry Branstad to Sen. Chuck Grassley, 10/10/1995 via Congressional Record, [3/19/97](#)]

Former Oklahoma Gov. Frank Keating: “Last April, in Oklahoma City, Merrick was at the helm of the Justice Department's investigation following the bombing of the Oklahoma City Federal Building, the bloodiest and most tragic act of terrorism on American soil. During the investigation, Merrick distinguished himself in a situation where he had to lead a highly complicated investigation and make quick decisions during critical times. Merrick Garland is an intelligent, experienced and evenhanded individual.” [Letter from Gov. Frank Keating to Sen. Bob Dole, 2/19/1996 via Congressional Record, [3/19/97](#)]

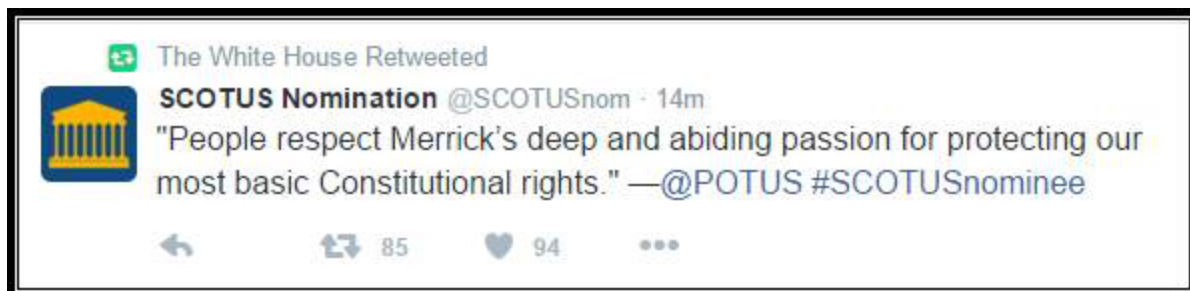
Ed Whelan, former Principal Deputy Assistant Attorney General for the Office of Legal Counsel in the U.S. Department of Justice and former law clerk to Supreme Court Justice Antonin Scalia: “He's earned the respect of a range of folks, including conservatives, and I think he is the most likely to exercise judicial restraint.” [Washington Post, [4/23/10](#)]

Charles J. Cooper, Assistant AG for the Office Of Legal Counsel in the Reagan Administration: “Not only is Merrick enormously gifted intellectually, but he is thoughtful as well, for he respects other points of view and fairly and honestly assesses the merits of all sides of an issue. And he has a stable, even-tempered, and courteous manner. He would comport himself on the bench with dignity and fairness.” [Letter from Charles J. Cooper to Sen. Orrin Hatch, 11/9/1995 via Congressional Record, [3/19/97](#)]

Former Associate Attorney General Jay B. Stephens: “In sum, his service as an Assistant United States Attorney was marked by dedication, sound judgment, excellent legal ability, a balanced temperament, and the highest ethical and professional standards. These are qualities which I believe he would bring to the bench as well.” [Letter from Jay B. Stephens to Sen. Chuck Grassley, 11/28/1995 via Congressional Record, [3/19/97](#)]

Curt Levey, Executive Director of the Committee For Justice: “You’ll have, if not a love fest, something close to it if [the choice is] a Garland.” [NY Mag, [4/23/2010](#)]

Carrie Severino, Chief Counsel and Policy Director to the Judicial Crisis Network: “But of those the President could nominate, we could do a lot worse than Merrick Garland... He's the best scenario we could hope for to bring the tension and the politics in the city down a notch for the summer.” [Washington Post, [4/23/10](#)]



In a Rose Garden ceremony today at the White House, President Obama announced his nominee to the Supreme Court of the United States, Merrick Garland. Merrick Garland, the Chief Judge of the U.S. Court of Appeals for the D.C. Circuit, has more federal judicial experience than any other Supreme Court nominee in history. No one is better suited to immediately serve on the Supreme Court.

Throughout his career, Chief Judge Garland has shown a rare ability to bring people together and has earned the respect of everyone he has worked with. Chief Justice John Roberts, Garland's colleague on the D.C. Circuit, once said that "anytime Judge Garland disagrees, you know you're in a difficult area." In 2010, as the Senate was beginning the process of confirming a successor to Justice John Paul Stevens, Senator Orrin Hatch said he saw Chief Judge Garland as "a consensus nominee" for the Supreme Court, adding "I have no doubts that Garland would get a lot of [Senate] votes. And I will do my best to help him get them."

Chief Judge Garland was confirmed to the D.C. Circuit 76-23, with majority support from both Republicans and Democrats. He has served for 19 years on that court – often considered the most important appellate court in the nation. For over 3 years, he has been the Chief Judge of the D.C. Circuit, continuing to distinguish himself as one of the most impressive judges in the country. He has cultivated a reputation as a brilliant, meticulous judge with a knack for building consensus, playing it straight, and deciding every case based on what the law requires. As he has said, "The role of the court is to apply the law to the facts of the case before it – not to legislate, not to arrogate to itself the executive power, not to hand down advisory opinions on the issues of the day."

Chief Judge Garland was born and raised in Illinois, by a mother who served as a community volunteer and a father who ran a small business out of the family home. His grandparents immigrated to the United States to escape persecution and find a better life. He won scholarships to attend Harvard University – where he graduated *summa cum laude* – and Harvard Law School, paying his way by taking a summer job as a shoe store stock clerk, selling his comic book collection and counseling undergraduates.

Chief Judge Garland began his career as a clerk for legendary Second Circuit Judge Henry Friendly and then Supreme Court Justice William Brennan. In just four years, Chief Judge Garland became a partner at a prominent law firm, with a practice focused on litigation and pro bono representation of disadvantaged Americans.

Throughout his career, Chief Judge Garland has demonstrated a commitment to putting his country first. In 1989, shortly after becoming a partner in private practice, Chief Judge Garland accepted a significant pay cut to become a federal prosecutor for

the U.S. Attorney's Office for D.C. under the Administration of President George H.W. Bush, where he investigated and prosecuted cases involving public corruption, drug trafficking and fraud. U.S. Attorney Jay Stephens, a Republican appointee, later described Garland's service to that office as marked "by dedication, sound judgment, excellent legal ability, a balanced temperament, and the highest ethical and professional standards."

He later was selected as the Deputy Assistant Attorney General for the Criminal Division at the Department of Justice, and then as Principal Associate Deputy Attorney General. In these roles, he oversaw some of the most important federal criminal cases brought by the Department.

Chief Judge Garland's work on the Oklahoma City bombing case was particularly notable and inspiring. In the wake of the bombing, he traveled to Oklahoma to oversee the case, and in the ensuing months coordinated every aspect of the government's response – working with federal agents, rescue workers, local officials, and others to bring the perpetrators to justice. He also kept in close touch with victims and their families throughout the case, and for several years afterwards as well. Later, former Oklahoma Governor Frank Keating, a Republican, wrote that, during his work on the Oklahoma City bombing case, Chief Judge Garland "distinguished himself in a situation where he had to lead a highly complicated investigation and make quick decisions during critical times."

Chief Judge Garland has also devoted himself to being a mentor and teacher. He remains close with his law clerks throughout their careers, encouraging them to pursue public service and advising them on how best to do so. In addition, for almost twenty years, he has tutored second, third, and fourth grade students in Northeast DC in reading and math. Chief Judge Garland and his wife of nearly thirty years, Lynn, have two daughters, Becky and Jessie. The family enjoys skiing, hiking and canoeing, and together they have visited many of America's national parks.



The White House Retweeted



SCOTUS Nomination @SCOTUSnom · 2h

Some wise words from President Reagan. [go wh.gov/SCOTUS](https://www.whitehouse.gov/SCOTUS)
#SCOTUSnominee

“The Federal judiciary is too important to be made a political football. I would hope, and **the American people should expect ... for the Senate to get to work and act.**”

- **President Reagan** on the confirmation of Justice Kennedy, 1988

[wh.gov/scotus](https://www.whitehouse.gov/scotus)



937



896





THE WHITE HOUSE
WASHINGTON

BIOGRAPHY: CHIEF JUDGE MERRICK BRIAN GARLAND

Merrick Garland is the chief judge of the most important federal appeals court in the nation. In this role, he has consistently forged consensus among judges across the ideological spectrum, and he is uniquely poised to serve immediately as a Supreme Court justice.

Born and raised in Illinois by a mother who served as a community volunteer and a father who ran a small business out of the family home, Garland was valedictorian of his public high school class. He won scholarships to attend Harvard University, where he graduated *summa cum laude*, and Harvard Law School, where he received his law degree *magna cum laude* and served on the Harvard Law Review. While in college, Garland worked a summer job as a shoe store stock clerk and sold his comic book collection to help pay his tuition. As a law student, he earned room and board by counseling undergraduates.

After law school, Garland clerked for legendary Second Circuit Judge Henry Friendly. Garland then clerked for Supreme Court Justice William Brennan. Garland became a partner at a prominent law firm in just four years, with a practice focusing on litigation and pro bono representation of disadvantaged Americans. In 1989, shortly after becoming a partner, he returned to public service by accepting a job as a federal prosecutor during the George H.W. Bush Administration, investigating and trying cases involving public corruption, drug trafficking, and fraud.

He later joined the Department of Justice, first as Deputy Assistant Attorney General for the Criminal Division and then as Principal Associate Deputy Attorney General. In these roles, he oversaw some of the Department's most significant prosecutions in the 1990s, including coordinating the government's response to the Oklahoma City bombing. Garland moved to Oklahoma in the days following that terrorist attack, and led the investigation and prosecution that ultimately brought Timothy McVeigh to justice. He also supervised the Department's responses to the Unabomber and the Montana Freeman.

When Garland was nominated to the D.C. Circuit, Garland received overwhelming bipartisan praise from Senators, lawyers, and commentators, and was confirmed by a vote of 76-23 in 1997. In his 19 years on the D.C. Circuit, Garland has a track record of building consensus as a thoughtful, fair-minded judge who follows the law. In his confirmation process, Chief Justice Roberts noted, "Any time Judge Garland disagrees, you know you're in a difficult area." Senator Orrin Hatch, the chairman of the Senate Judiciary Committee at the time of Garland's confirmation, has said Garland would be a "consensus nominee" for the Supreme Court who "would be very well supported by all sides." Garland became Chief Judge in 2013.

Garland and his wife of nearly 30 years, Lynn, have two daughters, Becky and Jessie. The family enjoys skiing, hiking and canoeing, and together they have visited many of America's national parks. Garland is known for mentoring his clerks, and since 1998, has volunteered as a tutor for elementary school students in Northeast Washington, D.C.

From: [Anderson, Matthew A.](#)
To: [Mayor Cownie](#); [Hensley, Christine L. \(External\)](#); [Bob Mahaffey](#); [Moore, Skip](#); [William Gray](#); [Chris Coleman](#); [Joe Gatto](#); [Sanders, Scott E.](#); [Olson-Douglas, Erin](#)
Subject: Fwd: 11/9/15 IEC Hotel Corp. Board Meeting
Date: Friday, November 06, 2015 1:23:02 PM
Attachments: [11-9-15 Agenda.pdf](#)
[ATT00001.htm](#)
[mis-resolution approving documents-lci.002 \(02278641x9D4A5\).doc](#)
[ATT00002.htm](#)
[agr-lease purchase BT IEC 102615.pdf](#)
[ATT00003.htm](#)
[mis-trust indenture 110315-out \(02279058x9D4A5\).pdf](#)
[ATT00004.htm](#)
[agr-hotel purchase agr DSM IEC 102615.pdf](#)
[ATT00005.htm](#)
[IEC HOTEL DEVELOPMENT AGREEMENT \(clean final edits for IEC Board consideration\) \(01154819-7x7F7E1\).pdf](#)
[ATT00006.htm](#)
[agr-hilton management agreement 110315-out \(02279071x9D4A5\).pdf](#)
[ATT00007.htm](#)
[IEC loan from Bankers trust IEC 102715.pdf](#)
[ATT00008.htm](#)
[ltr-construction loan commitment BTC Draft 110415.pdf](#)
[ATT00009.htm](#)
[9-9 minutes .pdf](#)
[ATT00010.htm](#)

Mayor and Council - Please see the attached agenda for the upcoming Iowa Events Center Hotel board of directors meeting.

-Matt

Sent from my iPhone

Begin forwarded message:

From: Mark Wandro <Mark.Wandro@polkcountyiowa.gov>
Date: November 6, 2015 at 11:35:08 AM CST
To: Allen McKinley <apmckinleydmia@gmail.com>, "Eisenhauer, Cindy " <eisenhauer5@mchsi.com>, "Galloway, Mike " <mgalloway@ahlerslaw.com>, "Grant Friesth" <Grant.L.Friesth@wellsfargo.com>, "Kaduce, Adam " <kaduce.adam@rrrealty.com>, "Neugent, Gerry " <gerryn@knappproperties.com>, "Voss, Susan " <vsusan@msn.com>
Cc: 'Kelly Dolinar' <kelly.dolinar@knappproperties.com>, "Wayne E. Reames" <WEReames@belinmccormick.com>, 'Eric Boehlert' <EBOEHLER@ahlerslaw.com>, "Tim Oswald" <timothy.j.oswald@pjc.com>, "Jim McCulloh (jim.mcculloh@weitz.com)" <jim.mcculloh@weitz.com>, "Anderson, Matthew A." <MAAnderson@dmgov.org>, "Olson-Douglas, Erin" <eodouglas@dmgov.org>, Sarah Boese <Sarah.Boese@polkcountyiowa.gov>
Subject: 11/9/15 IEC Hotel Corp. Board Meeting

Directors, attached is the proposed agenda, agenda items and Sept. 9th meeting minutes. You will note the large number of agreements. I know your preference is not to take action at the same meeting that an item is presented. I am asking for an exception to that preference due timing of EB-5 loan submittal which is by Dec. 11th. You may recall that C.M.B. is the regional EB-5 program administrator. They need all

documents 3 or 4 weeks in advance of the submittal. The action items at your Monday meeting will be part of the EB-5 submittal to C.M.B.

Let me know if you have any questions.

Thanks,

Mark

**IEC HOTEL CORPORATION
BOARD OF DIRECTORS REGULAR MEETING**

Community Choice Convention Center- Room 3 (Mezzanine Level)
833 5th Avenue, Des Moines Iowa
November 9, 2015 1:00 PM

1. Roll Call (Gerard D. Neugent, President)
2. Approval of the September 9 minutes
3. Resolution: Approval of the following agreements: (Wayne Reames, Eric Boehlert, Tim Oswald)
 1. Resolution
 2. Lease Purchase Agreement
 3. Trust Indenture
 4. Hotel Purchase Agreement
 5. Development Agreement
 6. Qualified Management Agreement
 7. Bankers Trust/IEC Loan Commitment
 8. Bankers Trust/DSM Loan Commitment
4. Update on the hotel scope, schedule and budget (Jim McCulloh)
5. Other Business
6. Adjournment

Next meeting date: To be determined

From: Joe Gatto
To: [Cownie, Frank](#)
Subject: Fwd: Connolly Lofts
Date: Wednesday, October 18, 2017 2:10:43 PM

----- Forwarded message -----

From: Matt Connolly <mconnolly@iowarealty.com>

Date: Mon, Oct 9, 2017 at 5:57 PM

Subject: Connolly Lofts

To: Joe Gatto (joegatto@dmgov.org) <joegatto@dmgov.org>, Coleman, Chris
<CColeman@dmgov.org>

CC: Bob Rafferty (rafferty@raffertygroup.com) <rafferty@raffertygroup.com>, Frank Levy
<flevy@newburyliving.com>, Chris Fultz <cfultz@iowarealty.com>

Hello Fellas, thanks for the call this weekend Joe. Chris, Joe asked me to follow up with an email today to both of you. To confirm what I mentioned on the phone, there is not a lot of changes happening on this project. We aren't necessarily making any monetary changes to the development agreement that I can recall, and the design changes are minimal. We basically still have the original 59 units, under 1/2 are 80% area median income level units and 2 units 30%ers, the rest market rate units as it's always been. We are still chasing a new IFA loan program for multifamily using a little Polk County Housing Trust money and Workforce Housing Tax credits. The big hold up, which you guys are very aware of was the WHTC award, it has been at least verbally accepted by the IEDA and submitted last week. The design changes are minimal with the biggy on se 6th, instead of a dog park we have added bike storage using storage containers and a rooftop patio above it. That amenity will connect with a bridge into a hallway of the apartment building. We added a hot tub on the se 7th St. side closer to MLK rather than Raccoon and a couple other minor changes we can share if you are interested in some more details.

Is there anything else I can share with you guys or does this cover it? I'm not sure why you had been hearing of a LIHTC project for Connolly Lofts, that was considered and thrown out a while ago once we received a go ahead to resubmit the WHTC to IEDA. If my partners want to add or if you would like to request something else from them, I copied all of us. Have a great night, I think we are trying to close next month.... which obviously is very exciting!

Connolly Sig Block-02



Please note: You are important to us, and so is your financial and electronic security. Email is not secure or confidential, and Iowa Realty will never request that you send funds or nonpublic personal information, such as social security numbers or credit card numbers or bank account and/or routing numbers, by email. If you receive an email message concerning any transaction involving Iowa Realty, and the email requests that you send funds or provide nonpublic personal information, do not respond to the email and immediately contact Iowa Realty. To notify Iowa Realty of suspected email fraud, contact: Fraud@IowaRealty.com

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Sent from Gmail Mobile

From: Laura Waxman
To: [Cownie, Frank](#)
Cc: [Jack Krumholtz](#)
Subject: Fwd: EB-5 Regional Center Program Reauthorization Update
Date: Monday, October 26, 2015 8:52:08 AM
Attachments: [S.1501 EB-5 Senate 2-Pager 10.19.15 \(1\).pdf](#)

Good Morning Mayor Cownie!

Below is an alert I just sent to city reps and wanted to make sure you have it as well since Senator Grassley is pushing a provision which would hurt Des Moines. Anything you can do it let him know about the negative effect on Des Moines would be very helpful. Am copying Jack Krumholtz of the EB-5 Coalition, who knows much more about this than me. Am sure he would be happy to provide you any information you might need.

Thanks,
Laura

----- Forwarded message -----

From: Laura Waxman <lwaxman@usmayors.org>
Date: Mon, Oct 26, 2015 at 9:35 AM
Subject: EB-5 Regional Center Program Reauthorization Update
To: Monday Morning Group <mmg@list.usmayors.org>
Cc: Jack Krumholtz <jkrumholtz@gpg.com>

City Reps:

Jack Krumholtz of the EB-5 Coalition called to let us know that negotiations are continuing on the Senate Judiciary Committee's bill to reauthorize the EB-5 Regional Center Program, but are unlikely to bear fruit. While most issues have been settled, no progress has been made in changes to the redefinition of Targeted Employment Areas (TEAs) proposed by Senators Grassley and Leahy. That provision, which would favor projects in rural areas, likely to the exclusion of urban projects, would present a serious problem for cities. Attached is an analysis of the economic consequences of the proposal that the EB-5 Coalition has prepared. You will note that it provides specific information on the negative consequences for jurisdictions in several states. **Please let your Senators, particularly if they are on the Judiciary Committee, know about your city's concerns with the proposed TEA redefinition and, if possible, what the impact would be for your city.**

Regarding the status of the program, it was extended with no changes in the continuing resolution. If Congress doesn't reauthorize the bill before the CR expires December 11 then we will need to call for another clean extension of the program.

If you have any questions about this please contact Jack at jkrumholtz@gpg.com or me.
Laura

--

Laura DeKoven Waxman
Director of Public Safety
The U.S. Conference of Mayors
1620 Eye Street, NW

Washington, DC 20006

[\(202\) 489-7534](tel:(202)489-7534)

lwaxman@usmayors.org



S. 1501's TEA Proposal: The Economic Consequences Made Clear

Some maintain that urban and suburban areas unfairly benefit from foreign investment dollars pooled by EB-5 regional centers. Unfortunately, in an effort to “punish” the success of the program in major urban gateway markets, S.1501 risks significant economic downside for hundreds of mid-sized cities and suburbs across the country. By redefining Targeted Employment Areas (TEAs) in a way that favors certain geographic regions over others, S.1501 threatens to restrict EB-5's impact overall, undermining its ability to promote growth and investment everywhere in America.

ALL STATES HAVE URBAN AREAS

There are cities in every single state in America. In fact, the most recent census data shows **there are 388 Metropolitan Statistical Areas (MSAs) across the U.S. and Puerto Rico**. Even states that are colloquially referred to as “rural” have urban cores, from Cedar Rapids and Des Moines in Iowa to Birmingham and Mobile in Alabama to Louisville and Lexington in Kentucky.

MID-SIZED CITIES WILL LOSE JOBS UNDER S. 1501

S. 1501's “One Census Tract” standard would mean that cities and suburbs where most Americans live would lose the economic benefits provided by EB-5 TEA designations. *For example:

- ✓ **ALABAMA:** *Approximately 72% of census tracts disqualified as TEAs* in the Mobile, Tuscaloosa, and Birmingham-Hoover MSAs. (Only 130 of the 469 tracts would qualify).
- ✓ **ILLINOIS:** *Approximately 73% of census tracts disqualified as TEAs* in the Chicago-Naperville-Arlington Heights, Peoria, Springfield, and Champaign-Urbana MSAs. (Only 561 of the 2,064 tracts would qualify).
- ✓ **IOWA:** *Approximately 97% of census tracts disqualified as TEAs* in the Des Moines-West Des Moines and Cedar Rapids MSAs. (Only 6 of the 188 tracts would qualify).
- ✓ **KENTUCKY:** *Approximately 83% of Kentucky census tracts disqualified as TEAs* in the Louisville-Jefferson County, Lexington-Fayette, Bowling Green, and Cincinnati MSAs. (Only 89 of the 516 Kentucky tracts would qualify).
- ✓ **LOUISIANA:** *Approximately 80% of census tracts disqualified as TEAs* in the New Orleans-Metairie, Baton Rouge, Lafayette, and Lake Charles MSAs. (Only 137 of the 679 tracts would qualify).
- ✓ **OHIO:** *Approximately 80% of census tracts disqualified as TEAs* in the Columbus MSA. (Only 82 of the 420 tracts would qualify).
- ✓ **PENNSYLVANIA:** *Approximately 89% of census tracts disqualified as TEAs* in the Pittsburgh MSA. (Only 75 of the 711 tracts would qualify).
- ✓ **TEXAS:** *Approximately 90% of census tracts disqualified as TEAs* in the Dallas-Ft. Worth-Arlington MSA. (Only 258 of the 2,628 tracts would qualify).
- ✓ **UTAH:** *Approximately 94% of census tracts disqualified as TEAs* in the Salt Lake City, Provo-Orem, and St. George MSAs. (Only 23 of the 387 tracts would qualify).

**A more robust list of impacted states and MSAs follows this document.*

To further illustrate the extreme imbalance created under S. 1501, it's worth noting that nearly the entire land areas of certain states qualify as TEAs. Rural areas outside of MSA boundaries are automatically eligible— and dominate these states. For example:

- ✓ **All of Alaska is a TEA** – except for the Anchorage and Fairbanks MSAs
- ✓ **All of Hawaii is a TEA** – except for the Honolulu and Lahaina MSAs
- ✓ **All of Vermont is a TEA** – except for the Burlington MSA

In order to be effective, TEA designations must not be drafted to benefit these states alone. They must also work for states with higher populations concentrated in cities and suburbs.

COMMUTING PATTERNS ARE KEY TO APPROPRIATELY DEFINING TEAs

Any effort to successfully redefine TEAs must account for worker commuting patterns within individual labor markets. **This is standard economic practice and a fair and objective means for addressing the fact that people don't typically live and work within the same census tract.** Encouraging a process for TEAs to frequently include the downtown areas most likely to yield jobs and business growth—rather than residential neighborhoods, as would often be the case under S.1501—is consistent with EB-5's job creating mission and in the best interest of U.S. workers and businesses.

EB-5 IS NOT A RURAL DEVELOPMENT PROGRAM

The EB-5 program was created for the purpose of bringing private investment into the U.S and creating jobs *everywhere* in America at no cost to taxpayers. Congress never intended for it to be a proxy or substitute for USDA's rural economic development programs. **USDA already operates 50 rural assistance programs representing billions of dollars of taxpayer funds, including:**

- **The Rural Business–Cooperative Service**, which provides assistance for the development of business and industry and had a FY'15 program level budget of approximately \$1.3 billion.
- **The Rural Utilities Services**, which provides assistance for services including water, rural electric and broadband access and had a FY'15 program level budget over \$7.3 billion.
- **The Rural Housing Service**, which provides assistance for home ownership, multi-family housing, and essential community facilities such as health and public safety infrastructure, with a total FY'15 program level budget of more than \$28.3 billion.

There is no evidence that the programs listed above (and other similar initiatives) are failing to promote economic development in rural communities. Nor has it been shown that EB-5 would be the appropriate tool for filling any unmet needs in USDA's Rural Development program office, should those gaps exist.

###

The analysis in this fact sheet was conducted using U.S. Government Census data from: <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>. It assumes a national unemployment rate of 9.7%, based on the most recent 5-year estimates from the American Community Survey.: <https://www.census.gov/programs-surveys/acs/guidance/estimates.html>.

From: [Cownie, Frank](#)
To: [Romer, Amanda M.](#)
Subject: Fwd: ICLEI Membership Assembly meeting - 4 September, 2015
Date: Wednesday, August 19, 2015 2:49:42 PM
Attachments: [Invitation Board of ICLEI e.V. Bonn 4 September FC.pdf](#)
[ATT00001.htm](#)
[01 Balance sheet 2014.pdf](#)
[ATT00002.htm](#)
[02 Income statement 2014.pdf](#)
[ATT00003.htm](#)
[2014 Management report -eng-final 2015 08 19.pdf](#)
[ATT00004.htm](#)
[ICLEI Proxy template.docx](#)
[ATT00005.htm](#)
[Independent Auditor's Report 2014 2015 08 19.pdf](#)
[ATT00006.htm](#)

Not much detail in these financials. Could you ask Scott to review and give us his thoughts. I want more information. I hope I don't need to go to Bonn to get it....

Sent from my iPad

Begin forwarded message:

From: "ICLEI Secretary General's Office" <secretary.general@iclei.org>
To: "Cownie, Frank" <FCownie@DMGOV.ORG>, "T M Cownie" <fcownie@mac.com>, "Romer, Amanda M." <AMRomer@dmgov.org>, "McCroskey, Monica J." <MJMcCroskey@dmgov.org>
Subject: ICLEI Membership Assembly meeting - 4 September, 2015

Dear member of the Assembly and Vice-president of the ICLEI e.V Board

I am pleased to send you the official invitation (attached) to the next ICLEI Membership Assembly meeting taking place on **Friday, 4 September at 06:00 GMT+2 (Bonn time)**

Mr. Frank Cownie - 23:00 GMT-5 Des Moines time

Ms. Cathy Oke - 14:00 GMT+10 Melbourne time

Mr. Pekka Sauri - 07:00 GMT+3 Helsinki time

Mr. David Cadman - 21:00 GMT-7 Vancouver time

Ms. Mary Jane Ortega - 12:00 GMT+8 Manila time

We are very pleased to know that in principle all of you have [confirmed](#) availability of attendance. We know that it is quite the task, given the time zone differences.

In addition, please also find attached the draft files sent from the Auditor. We expect to receive the signed Auditor report by the time of the meeting itself.

Regards,

--

Gino Van Begin

Secretary General

ICLEI - Local Governments for Sustainability
World Secretariat
Kaiser-Friedrich-Str. 7
53113 Bonn
Germany

Tel. +49-(0)228 / 976 299-14
Fax +49-(0)228 / 976 299-01
Email: secretary.general@iclei.org

Twitter: [@ICLEI](https://twitter.com/ICLEI)
Web: www.iclei.org

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ICLEI is the world's leading network of over 1,000 cities, towns and metropolises committed to building a sustainable future. By helping our Members to make their cities sustainable, low-carbon, resilient, biodiverse, resource-efficient, healthy and happy, with a green economy and smart infrastructure, we impact over 20% of the global population.

Mr. Frank Cownie
Mayor
Des Moines, Iowa
USA

Bonn, 19 August 2015

Invitation to meeting of the ICLEI e.V. Bonn Membership Assembly, 4 September 2015

Secretary General

ICLEI World Secretariat
Kaiser-Friedrich-Str. 7
53113 Bonn
Germany

Phone: +49-228/976 299-11

Fax: +49-228/976 299-01

Email: secretary.general@iclei.org

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www.iclei.org

Dear ICLEI e.V. Bonn Membership Assembly member and Vice President of the ICLEI e.V Board

In compliance with the ICLEI – Local Governments for Sustainability articles of association (article §11.3) we hereby call for a meeting on **Friday, 4 September at 06:00 GMT+2 (23:00 GMT-5 Des Moines time)** to which you are cordially invited.

The proposed agenda items are as follows:

1. Approval of the audited statements of accounts for the ICLEI e.V. (Bonn) for the year 2014
2. Release the Executive Director of Liability for the 2014 Accounts;
3. Appointment of the auditor in 2016 for the 2015 audited statements
4. Other business;

Annexes: Audited statements of accounts for the ICLEI e.V. (Bonn) for the year 2014 and supporting documents.

In case you are prevented to attend the call, please provide your proxy to one of the other Assembly members (template attached).

Kind regards,

Gino Van Begin
Secretary General
ICLEI - Local Governments for Sustainability

ICLEI - Local Governments for Sustainability e.V.

Bonn

Balance Sheet at 31 December 2014

ASSETS	€	12/31/2014 €	12/31/2013 €	EQUITY & LIABILITIES	12/31/2014 €	12/31/2013 €
A. Fixed assets				A. Shareholder's equity		
I. Intangible assets				Earmarked reserves		
Licences and similar rights	983.00		1,650.00	according to sec. 62 (I) No. 1 AO	864,684.26	816,536.69
II. Tangible assets				B. Provisions		
Office equipment	<u>47,432.00</u>	48,415.00	59,099.00	1. Pension provisions		
				and similar obligations	86,775.17	104,718.05
III. Financial assets				2. Other provisions	<u>130,678.46</u>	217,453.63
Shares in affiliated companies		<u>4,487.66</u>	<u>4,487.66</u>			124,703.02
		52,902.66	65,236.66	C. Accounts payable		
B. Current assets				1. Trade payable	49,128.05	91,799.47
I. Receivables and other assets				2. Other accounts payable	<u>24,094.78</u>	73,222.83
1. Membership fees	55,667.20		39,456.19	(of which taxes: € 16,835.49;		142,407.39
2. Grants	109,131.42		255,571.01	previous year: € 55,670.90)		
3. Other assets	<u>54,820.68</u>	219,619.30	26,872.03	(of which social security payables:		
				€ 0.00; previous year: € 7,446.79)		
II. Cash on hand and bank balances		1,210,845.19	2,500,864.67	D. Deferred income	328,499.08	1,608,626.75
C. Prepaid expenses						
and deferred charges		492.65	790.81			
		<u>1,483,859.80</u>	<u>2,888,791.37</u>		<u>1,483,859.80</u>	<u>2,888,791.37</u>

ICLEI - Local Governments for Sustainability e.V.
Bonn
Income Statement
for the fiscal year from 01/01/2014 to 31/12/2014

	2014	2013
€	€	€
1. Other operating income		
a) Project-related revenues	3,053,271.39	2,852,272.23
b) Membership fee revenues	172,605.80	259,353.00
c) Start-up grant funding	0.00	265,133.24
d) Other	20,592.61	27,086.32
	<u>3,246,469.80</u>	<u>3,403,844.79</u>
2. Project-related external costs	-1,470,157.58	-1,322,045.39
3. Personnel expenses		
a) Wages and salaries	-1,179,265.99	-1,029,549.70
b) Social security, pension and other benefits	-236,226.96	-205,869.59
(of which relating to pensions:	14,134.32	
previous year:	15,929.32)	
4. Amortization and depreciation		
a) of intangible and tangible assets	-22,409.86	-30,246.02
b) of current assets, insofar as they exceed normally company depreciation	<u>-8,310.00</u>	<u>-2,540.00</u>
5. Other operating expenses	-279,819.39	-333,006.94
6. Other interest and similar income	1,648.37	2,418.58
7. Interest and similar expenses	<u>-3,780.82</u>	<u>-7,513.83</u>
8. Net operating income	48,147.57	475,491.90
9. Consumption of the last year's earmarked reserves	816,536.69	341,044.79
10. Transfer into the earmarked reserves according to sec. 62 (I) No. 1 AO	-864,684.26	-816,536.69
11. Net income for the year	<u><u>0.00</u></u>	<u><u>0.00</u></u>



Management report for 2014

After the early stages of its development, the association ICLEI – Local Governments for Sustainability e. V. is currently in a stage of continuous consolidation and strengthening.

1. Economic situation 2014

In financial terms, the year 2014 has been satisfactory.

- The financial year 2014 closed with an allocation of funds into the reserve.
- There has been cash available all year round.
- The remitted membership fees (according to a decision by the ICLEI governance board, 35% of the worldwide membership fees (except from developing countries) should be allocated to the World Secretariat) decreased by 87,000€ as compared to the previous year. This decrease can be attributed to the economic challenges, being faced by some regional offices, which led them to not being able to pay their budgeted contributions to the ICLEI e.V (World Secretariat) for that year.

2. Project development 2014

The project development and related funding in 2014 has been satisfactory.

- The number of projects was slightly higher than those of previous years.
- The funding volume was slightly higher, mainly due to the project “Urban-LEDS”, which is running with full capacity since 2013. While the largest project (Urban-LEDS) still runs until 2016, seventeen other projects were completed either during or by the end of the year.
- Three projects are annually recurring projects, such as the Resilient Cities Congress in Bonn.
- All projects implemented in 2014 had a global dimension or served the global development of the association, including all conference projects. While some projects worked with selected model countries / model cities, others use a city to showcase internationally relevant policy innovation. Several projects concentrate(d) on global advocacy or assisted to advance and develop systems that showcase the relevance of local sustainability activities.
- Projects implemented by ICLEI e.V. are funded by grants for the larger part or conducted as service contracts to a small extent.
- Other ICLEI-Regional offices were involved in some projects that are conducted by and through the ICLEI e.V. (ca. k€ 784).

Statistic and Facts:

	2014
Number of projects with cost center (including very small projects)	27
... among these, projects financed through grants / sum in EUR	19 / K € 2,447
Number of projects with start or end date outside the business year	4
Project with the largest funding volume	Urban-LEDS
Number of sponsors and contract partners, without membership dues	24
Number of events (with cost center, not including smaller events in projects)	2 (Metropolitan Solutions and Resilient Cities) 1 (Startup phase: World Congress Seoul 2015)
New partners / sponsors in this year	7

The project related proceedings are structured as follows:

Project- related purchased services	T€	
Urban LEDS Phase 2	1,367	44.8 %
GIZ	303	9.9 %
Resilient Cities 2014	255	8.3 %
World Congress Seoul 2015	231	7.6 %
Metropolitan Solutions 2014	213	7.0 %
Urban „Nexus“	211	6.9 %
Übrige	473	15.5 %
Insgesamt	3,053	100 %

3. Internal Organization 2014

The internal organization of the association has been adapted to the growing tasks, projects and number of employees in 2014

- The scope of functions for team leaders was further strengthened by their increased responsibilities and periodic team leaders' meetings. These meetings serve as a platform to

discuss, exchange and coordinate strategic issues, partner contacts and internal management issues.

Staff development has been positive and without problems.

- Staff development at ICLEI e.V. is characterized by the respective opportunities in project funding, which leads to the temporary increase or decrease of capacities.
- Particularly the communications, administration and finance teams increased in number this year in order to meet growing demands and fulfil their tasks.
- The team consists of young and international employees with great expertise.
- The team leaders' level remained unchanged in the year 2014.

Statistic / Facts:

	2014
Number of Staff in January	37
Number of Staff in December	39
total number of staff employed during the year	51
total number of staff, employed continuously throughout the year	26
Average number of employees (monthly)	38
employees with permanent contracts	11
total number of interns employed during the year	11 + 3 Leonardo interns
Nationalities represented in Teams (including dual citizenship)	22
languages spoken	26
total number of hours worked in the year, without vacation, public holidays and sick leave	64,964

4. Future prospects for 2015

The currently secured projects for 2015 as well as those under development and acquisition, permit a confident outlook for 2015. The development of membership fees however is unsure, since some regional secretariats will continue to face financial challenges in 2015.

Provisions for this situation have been made in the ICLEI e.V. 2015 budget and thus it is not perceived as risk factor. Despite the generally positive situation, all employees are encouraged to prioritise expanding contacts and working on project design and acquisition.

Bonn, 30 June 2015

Gino Van Begin

Executive Director, ICLEI e.V.

ICLEI Proxy Statement

BE IT KNOWN, that I,, an ICLEI Membership Assembly member appoint as my DESIGNATED PROXY HOLDER and agent for me and in my name, place and stead, to vote as my proxy at the ICLEI Membership Assembly meeting, to be held on 4 September, 2015, or any adjournment thereof, for the transaction of any business which may come before the meeting, and for me and in my name, to act as fully as I could do if personally present; and I herewith revoke any other proxy heretofore given.

WITNESS my hand and seal this _____ Day of August 2015.

CITY, COUNTRY

Signed:

ICLEI – Local Governments for Sustainability e.V.

Bonn

Independent Auditor's Report

for the year ended

31 December 2014

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Appendices

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1. Nature and Purpose of Engagement

Following the decision of the Executive Board of ICLEI e.V, Mr. Gino Van Begin, the Executive Director of ICLEI – Local Governments for Sustainability e.V., Bonn/Germany (hereafter referred to as “ICLEI”), engaged RENTROP & PARTNER KG, Wirtschaftsprüfungsgesellschaft Steuerberatungsgesellschaft, Bonn/Germany, to perform an audit of the financial statements as of 31 December 2014 as well as of the management report 2014.

We audited the accompanying financial statements prepared by ICLEI e.V, consisting of the balance sheet, the related income statement and the notes concerning the essential accounting and valuation methods, together with the management report for the fiscal year 2014.

The main emphasis of our examination was in the audit fields revenue recognition, project accounting and personnel accounting.

We performed our work – with interruptions – from 18 June 2015 through 20 August 2015 at the offices of the ICLEI e.V. as well as at our office.

The Executive Director has provided us with a written statement to the effect that all information and explanations that was given to us in relation to the audit are complete and correct.

Our engagement and our liability are based upon the General Engagement Terms for German Public Auditors and Public Audit Firms as of January 1, 2002, attached to this report as appendix 5.

2. General Information

According to the section 2.4 of the articles of association ICLEI - Local Governments for Sustainability e.V. pursues a non-for-profit activity and is altruistic in its action. The association is acknowledged and certified as a non-for-profit organization by the German tax authorities. For this purpose, ICLEI is exempt of corporate income taxes.

All other taxes upon ICLEI as well as all social security contributions have been paid by ICLEI in a correct manner. Wage taxes and social security contributions have been paid on a monthly basis. For value added taxes (VAT), monthly prepayments have been made.

As a non-for-profit association, ICLEI does not pursue commercial purposes. Usually, if a reporting period ends with a revenue surplus, this surplus will be transferred in an earmarked reserve for the expenditure of the following period(s).

3. Summary of Audit Findings for the Reporting Period

The reporting period is characterized by a process of strengthening existing structures as well as the development of new project-related activities.

The financing of the association is solely covered by project-related third-party funding, membership contributions and small-sized grants, whereby the acquisition and implementation of projects crucially depend on the fund raising capacities of management. Due to the requirements of the operating business activities ICLEI has established a cost-based comprehensive documentation and reporting system which allowed generating a wide range of evaluation options. This system constitutes an essential basis for the internal business management. Our examination of the internal control procedures which are implemented by the management has not led to any significant objections.

In addition, no significant accounting and auditing issues arose. Furthermore, no misstatement which could have an essential impact on the true and fair view of the reporting figures came to our attention. Especially, the procedures applied by the association relating to revenue recognition, project accounting and personnel accounting are carried out in an apparently correct and acceptable manner.

Our audit of the financial statements of ICLEI has not led to any reservations. We refer to our below-mentioned Independent Auditor's Report (see item 5.).

4. Major Fluctuations of Profit and Loss and Balance Sheet Items

Key figures of the income statement:

	FY 2014	FY 2013	Change	
	in k€	in k€	in k€	in %
Total income	3.246	3.404	-158	-4,6
Project related external costs	-1.470	-1.322	-148	11,2
Personnel expenses	-1.415	-1.235	-180	14,6
Amortization and depreciation of fixed assets	-23	-30	7	-23,3
Other operating expenses	-280	-333	53	-15,9
Operating result	58	484	-426	-88,0
Financial result	-2	-5	3	
Non-recurring expenses	-8	-3	-5	
Surplus for the year	48	476	-428	-89,9
Consumption of the last year's earmarked reserves	817	341	476	
	865	817	48	
Transfer into the (new) earmarked reserves	-865	-817	-48	
Net income for the year	0	0	0	

The major fluctuations in the P&L items can be explained as follows:

Total income: in the reporting period the business operations are essentially funded by two sources of income: project-related revenues and membership fees. The project-related revenues are slightly increased but they are not able to compensate the decline in the other fields completely. The start-up grant funding expired by 30 June 2013 at latest. In comparison with the previous period, the total income decreased by 4.6 %.

	FY 2014		FY 2013		Change	
	in k€	in %	in k€	in %	in k€	in %
Project-related revenues	3.053	94,1	2.852	83,8	201	7,0
Membership fee revenue	173	5,3	260	7,6	-87	-33,5
Start-up grant funding	0	0,0	265	7,8	-265	-100,0
	3.226	99,4	3.377	99,2	-151	-4,5
Other	20	0,6	27	0,8	-7	-25,9
Total income	3.246	100,0	3.404	100,0	-158	-4,6

The development of project-related revenues directly depends on the nature and scope of the individual projects. As in the previous year, the Urban-LEDS project represents the largest.

	FY 2014		FY 2013		Change	
	in k€	in %	in k€	in %	in k€	in %
Urban LEDS	1.367	44,8	885	31,0	482	54,5
GIZ project consulting relating to municipal and urban development	303	9,9	138	4,8	165	>100,0
Resilient Cities Congress	255	8,4	320	11,2	-65	-20,3
World Congress 2015	231	7,6	0	0,0	231	100,0
Global Town Hall@Metropolitan Solutions	213	7,0	252	8,8	-39	-15,5
GIZ Nexus	211	6,9	39	1,4	172	>100,0
Rio+20 follow up	78	2,6	33	1,2	45	>100,0
NRW Carbons	78	2,6	0	0,0	78	100,0
EcoMobility Alliance	61	2,0	118	4,1	-57	-48,3
EcoMobility Festival Suwon	4	0,1	489	17,1	-485	-99,2
EcoMobility Congress Suwon	0	0,0	176	6,2	-176	-100,0
Nantes Climate Summit 2013	0	0,0	184	6,5	-184	-100,0
Other	252	8,3	218	7,6	34	15,6
Total project-related revenue	3.053	100,0	2.852	100,0	201	7,0

According to practice and arrangements with other regional or country-based ICLEI offices, 35 % of the worldwide membership dues (except from emerging countries) should be paid to the World Secretariat. Nevertheless, the absolute amount of membership fees received yearly by the ICLEI e.V. (ICLEI World Secretariat) depends on the relevant income conditions of the regional offices. Due to continued economic crisis in some countries the membership fees have been decreased rapidly.

Project-related external costs: the level of project-related external costs is due by the concerning project-related activities. For the Urban LEDS project, several major activities have been performed together with other regional ICLEI offices. In such and similar cases, the ICLEI e.V. (ICLEI World Secretariat) was responsible for certain global activities, for project monitoring as well as for the distribution of tasks and transmitted prorated funds to the involved regional offices for performed local project activities with Urban LEDS.

Personnel expenses: the increase of personnel expenses was due to the continuing extension of own staff capacities for implementing projects. This development goes hand in hand with the expansion of the number of projects. The average number of staff employed during the year raised up from 32 in the prior year to 38 in the reporting period. The total number of hours worked in the year increased by 7.2 %.

Other operating expenses: the decrease of the other operating expenses was due to corresponding reductions in general expenses (or because of the fact that such expenses could be attributed to projects), except marketing expenses.

	FY 2014		FY 2013		Change	
	in k€	in %	in k€	in %	in k€	in %
IT-Services	106	37,9	114	34,2	-8	-7,0
Maintenance expense relating to hard- and software	71	25,4	95	28,5	-24	-25,3
Public relations	1	0,4	26	7,8	-25	-96,2
Other	102	36,4	98	29,4	4	4,1
Total other operating expenses	280	100,0	333	100,0	-53	-15,9

Non-recurring expenses: the non-recurring expenses refer to impairment on outstanding membership contributions. These write-downs are non-recurring expenses and are shown in the statutory income statement as depreciation of current assets.

The **revenue surplus**, which remains after deducting expenses and taking into account the use of prior year reserve, was **transferred into the earmarked reserve**. This reserve shall be used to cover a part of the planned expenses of the ongoing business operations in the following period. At the end of fiscal year 2014 the earmarked reserve amounts to k€ 865.

Key figures of the balance sheet:

	FY 2014		FY 2013		Change	
	in k€	in %	in k€	in %	in k€	in %
Assets						
Non current assets						
Fixed assets	53	3,6	65	2,2	-12	-18,5
Current assets						
Membership fees	56	3,8	39	1,3	17	43,6
Grants	109	7,3	256	8,9	-147	-57,4
Cash & cash equivalents	1.211	81,6	2.501	86,6	-1.290	-51,6
Other receivables and prepaid exp.	55	3,7	28	1,0	27	96,4
Total current assets	1.431	96,4	2.824	97,8	-1.393	-49,3
Total assets	1.484	100,0	2.889	100,0	-1.405	-48,6
Equity and liabilities						
Shareholder's equity						
Earmarked reserves	865	58,3	817	28,3	48	5,9
Total equity	865	58,3	817	28,3	48	5,9
Non current liabilities						
Pension provisions and similar obligations	87	5,9	105	3,6	-18	-17,1
Total non current liabilities	87	5,9	105	3,6	-18	-17,1
Current liabilities						
Trade payable	49	3,3	92	3,2	-43	-46,7
Other payables and accrued exp.	155	10,4	266	9,2	-111	-41,7
Total current liabilities	204	13,7	358	12,4	-154	-43,0
Deferred income	328	22,1	1.609	55,7	-1.281	-79,6
Total equity and liabilities	1.484	100,0	2.889	100,0	-1.405	-48,6

The major fluctuations in the balance sheet items can be explained as follows:

Fixed assets: the decrease in fixed assets is due to the ordinary amortization and depreciation on tangible and intangible assets. The investments (k€ 12) and disposals (k€ 1) which have taken place in the current period relate to capital expenditure for IT hardware and other office equipment.

Membership fees: the main part of outstanding membership fees refers to the current period (2014).

	FY 2014 in k€	FY 2013 in k€	Change	
			in k€	in %
Membership fees				
Current period	52	36	16	
Prior years	4	3	1	
	56	39	17	43,6

Grants: the decrease of grants is caused by the development of open items relating to project-related funds.

	FY 2014 in k€	FY 2013 in k€	Change	
			in k€	in %
Grants				
Project-related funds	106	252	-146	
Other	3	4	-1	
	109	256	-147	-57,4

Cash & cash equivalents / deferred income: in both cases, decreases primarily refer to the use of advanced payments for activities within several large-scale projects which are performed in the reporting period.

	FY 2014 in k€	FY 2013 in k€	Change	
			in k€	in %
Deferred income				
Advance payments relating to projects	319	1.607	-1.288	
Other	9	2	7	
Total	328	1.609	-1.281	-79,6

Other receivables: the increase of other receivables is a result of ordinary business activities and mainly balance-sheet driven.

Other payables and accrued expense: the other payables and accrued expenses are broken down as follows:

	FY 2014 in k€	FY 2013 in k€	Change in k€ in %	
Other payables and accrued expense				
Accruals for funds which have to reimburse to the beneficiaries	82	82	0	
Accrued personnel expense	43	33	10	
VAT and wage tax payables	17	56	-39	
Project-related funds which have to transfer to the third parties	0	69	-69	
Other	13	26	-13	
Total	155	266	-111	-41,7

5. Independent Auditor's Report

To Mr Gino Van Begin

Executive Director of ICLEI – Local Governments for Sustainability e.V.

As auditor, we have audited the accompanying financial statements of ICLEI – Local Governments for Sustainability e.V. as of 31 December 2014, in particular the balance sheets, the related income statements and the notes for the year then ended as well as the management report 2014.

Executive Director's Responsibility for the Financial Statements

The Executive Director of the ICLEI e.V. is responsible for the preparation of the financial statements and the management report that must give a true and fair view in accordance with German Accounting Standards. This responsibility includes designing, implementing and maintaining an internal control system relevant to the preparation and fair presentation of financial statements as well as the management report that are free from material misstatement, whether due to fraud or error. The Executive Director is further responsible for selecting and applying appropriate accounting policies and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements and the management report based on our audits. We conducted our audits in accordance with the International Standards on Auditing, respectively, in accordance with the corresponding German Auditing Standards, in order to state whether, on the basis of the procedures described, we have become aware of any matter that makes us believe that the financial statements and the management report are not in accordance with the German Accounting Standards including: giving a true and fair view of the association's financial position as of 31 December 2014, and its performance for the year then ended.

As the auditor of ICLEI – Local Governments for Sustainability e.V., we have to comply with the ethical requirements relevant to the audit of the financial statements and the management report.

The auditing standards require that we plan and perform the audits to obtain reasonable assurance whether the financial statements and the management report are free from material misstatement.

An audit involves performing procedures to obtain audit evidences about the amounts and disclosures in the financial statements and the management report. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements as well as the management report, whether due to fraud or error. In making those risk assessments, the auditor considers the internal control system relevant to the entity's preparation and fair presentation of the financial statements and management report in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made, as well as evaluating the overall presentation of the financial statements and management report. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Auditor's Independence Declaration

In conducting our audits, we complied with the German and International Auditing Standards relevant to independence requirements. We confirm that to the best of our knowledge and belief, there have been no contraventions of the auditor independence requirements of International Auditing Standards in relation to the audits and to any applicable code of professional conduct in relation to the audits.

Auditor's statement of correct management

As auditor we hereby declare and certify that ICLEI - Local Governments for Sustainability e.V. is not in any of the following situations:

- bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations.

As auditor we hereby further declare and certify that the Executive Director of ICLEI - Local Governments for Sustainability e.V., Mr. Gino Van Begin, is not in any of the following situations:

- have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata; (i.e. against which no appeal is possible);
- have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organization or any other illegal activity detrimental to the EU's financial interests;
- have been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify.

Opinion

Based on our audit, we have no findings that make us believe that the year-end financial statements and the management report of ICLEI – Local Governments for Sustainability e.V. are not in accordance with German Accounting Standards, or do not give a true and fair view of the association's financial position as of 31 December 2014 and of its performance for the year then ended.

In our opinion, the financial statements and the management report referred to above present fairly, in all material respects, the financial position of ICLEI – Local Governments for Sustainability e.V. as of 31 December 2014, and the results of its operations for the year then ended, in accordance with accounting principles generally accepted in Germany.

In preparing this report, we have observed professional duties and principles stipulated in paragraphs 2 and 43 of the Wirtschaftsprüferordnung (law regulating the profession of Certified Public Accountants in Germany).

Bonn, 20 August 2015

RENTROP & PARTNER KG
Wirtschaftsprüfungsgesellschaft
Steuerberatungsgesellschaft

Hans W. Ronneberger
Wirtschaftsprüfer

Thomas Schiefelbusch
Wirtschaftsprüfer

From: George Kivork
To: [Romer, Amanda M.](#); [T M Cownie](#)
Subject: Fwd: Invitation to Sign Onto Amicus Brief in Support of Immigration Reform Executive Actions
Date: Monday, March 23, 2015 3:27:04 PM
Attachments: [5th Circuit Amicus Brief on Immigration Action.pdf](#)

Greetings Mayor Cownie:

Attached is the amicus brief on immigration to be filed in the Fifth Circuit Court of Appeals. Several dozen USCM Mayors plan on signing on by this Thursday, March 26 - so making sure you'd seen a copy of the brief if you're interested in joining.

Respectfully,
George

George Kivork
Federal Liaison
Office of Los Angeles Mayor Eric Garcetti
202-714-9497

----- Forwarded message -----

From: USCM/Tom Cochran <actionalert@usmayors.org>
Date: Thu, Mar 19, 2015 at 2:57 PM
Subject: Invitation to Sign Onto Amicus Brief in Support of Immigration Reform Executive Actions
To: george.kivork@lacity.org



TO: The Mayor

FROM: Tom Cochran, CEO and Executive Director

In January the mayors of 33 cities, the U.S. Conference of Mayors and the National League of Cities filed a joint amicus brief in the U.S. District Court opposing a motion by 25 governors seeking a preliminary injunction to halt implementation of the President Obama's immigration executive actions. The effort to bring mayors together to support the brief was led by New York City Mayor Bill de Blasio and Los Angeles Mayor Eric Garcetti and announced during the Conference's Winter Meeting.

The District Court judge granted the governors' preliminary injunction and implementation of the executive actions has been halted. The U.S. Department of Justice is now appealing the District Court judge's decision in the Fifth Circuit Court of Appeals. I write to invite your city to sign onto an amicus brief to be submitted to the Court that is being drafted by the City of New York in support of the President's Executive Action. Individual mayors and cities and The U.S. Conference of Mayors are joining the brief.

The timetable is quite short: If you are interested in joining the brief, a copy of it will be sent to you for review by Monday, March 23. You will be asked to sign on as quickly as possible and no later than Thursday, March 26, as the brief must be filed with the Court by March 30. The Conference is working in partnership with the Cities of New York and Los Angeles on this effort. **To sign on to the brief, please email Jeremy Shweder at the New York City Law Department at jshweder@law.nyc.gov**, listing the signature block, with an attorney for the mayor or city as signatory, to be included in the brief. Even if you joined the district court amicus brief, please still send an email to affirm your sign-on to the Fifth Circuit brief.

The mayors' brief will focus on the fourth element of the preliminary injunction standard: whether the injunction will disserve the public interest. The district court purported to balance the public interest and found that the interest that "weighs the heaviest" was ensuring that actions of the executive branch comply with the law. Although the cities filed an amicus brief below explaining why granting a preliminary injunction would be strongly contrary to the public interest, the district court failed to consider the cities' asserted interests and gave only cursory consideration of the public's interest in general.

Conference policy has long called for repairs to our nation's broken immigration system. While that policy has generally envisioned Congressional action, it has also called for executive action when Congress failed to act.

If you have any questions, please contact Laura DeKoven Waxman at the U.S. Conference of Mayors at lwaxman@usmayors.org or (202) 489-7534 or Geraldine McIntyre with NYC Federal Affairs, at gmcintyre@cityhall.nyc.gov or (202) 624-5922.

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No. 15-40238

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

STATE OF TEXAS, *et al.*

Plaintiffs-Appellees,

v.

UNITED STATES OF AMERICA, *et al.*

Defendants-Appellants.

On appeal from the United States District Court
Southern District of Texas Brownsville Division
No. 1:14-cv-00254 (Andrew S. Hanen, J.)

**BRIEF FOR AMICI CURIAE THE MAYORS OF NEW YORK AND LOS
ANGELES, __ ADDITIONAL MAYORS, CITIES, COUNTY
EXECUTIVES, AND COUNTIES, THE UNITED STATES CONFERENCE
OF MAYORS, AND THE NATIONAL LEAGUE OF CITIES
IN SUPPORT OF APPELLANTS**

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INTRODUCTION AND INTEREST OF THE AMICI CURIAE

Amici are ___ mayors, cities, county executives, and counties from across the country, including Mayor Bill de Blasio of New York, New York; Mayor Eric Garcetti of Los Angeles, California; [*MORE TO COME*]

The *amici* mayors, county executives, and local governments have a compelling interest in this appeal and in demonstrating that the district court's grant of a preliminary injunction is strongly contrary to the public interest. Local officials witness every day the contributions that immigrants make to their neighborhoods and communities, as well as the harms that result from keeping long-time residents of those neighborhoods and communities in the shadows due to questions about their immigration status. *Amici* also see and must address the harms to families and children that an ongoing threat of deportation produces. A great number of the estimated 11 million undocumented immigrants in the United States¹ have lived in *amici*'s cities and counties for a decade or more.² So, the mayors, county executives, and cities represented in this brief have a distinctive, on-the-ground perspective and understanding of how the proposals for temporary

¹ See, e.g., Jens Manuel Krogstad & Jeffrey S. Passel, Pew Research Ctr., *5 facts about illegal immigration in the U.S.* (Nov. 18, 2014), available at <http://www.pewresearch.org/fact-tank/2014/11/18/5-facts-about-illegal-immigration-in-the-u-s> (estimating 11.2 million undocumented immigrants based on 2012 data).

² Pew Research Ctr., *A Nation of Immigrants*, (Jan. 29, 2013), available at <http://www.pewhispanic.org/2013/01/29/a-nation-of-immigrants> (noting that in 2010, nearly two-thirds of undocumented adult immigrants had lived in the United States for at least a decade).

relief from deportation outlined in the Secretary of Homeland Security's November 20, 2014 Deferred Action Guidance Memorandum (*see* Attachment 3 to Appellants' Emergency Motion for Stay Pending Appeal, filed March 12, 2015) (hereinafter, the "Executive Action") will affect eligible individuals, their families, and, indeed, all residents within *amici*'s jurisdictions.

Amici entirely support the Executive Action, which would allow eligible undocumented children and adults to apply for expanded "Deferred Action for Childhood Arrivals" ("expanded DACA") and eligible undocumented parents of U.S. citizen and lawful permanent resident children to apply for "Deferred Action for Parental Accountability" ("DAPA"). While *amici* recognize that others hold a different view about the Executive Action, it cannot be disputed that undocumented immigrants live in, work in, and form part of local communities and neighborhoods across this country—and have done so for some time. The Executive Action recognizes a reality that *amici* have long known: communities are safer, economically stronger, and better places to live when undocumented immigrants who have substantial and longstanding ties to their communities and who pose no threat to public safety are able to come out of the shadows, participate more fully in civil society, better contribute to the economic growth of their communities, and interact with government officials without fear. The Executive Action is a practical and much-needed exercise of enforcement discretion that will

allow those who qualify under expanded DACA and DAPA to participate more fully and safely in their cities, counties, and communities.

Amici demonstrate herein that a delay in implementing the Executive Action harms their cities and counties and all residents thereof by forestalling the critical benefits of that Action, which include increasing public safety and public engagement, fueling economic growth, and facilitating the full integration of immigrant residents by promoting family unity and limiting family separation. These benefits are real, and they will accrue day by day. By contrast, the plaintiffs have not identified any comparable concrete harm that would result from allowing the Executive Action to be implemented during the pendency of this case. The district court failed to consider the important and timely public interests that affect the ____ million people within *amici*'s jurisdictions, and this is one reason, among many, that the court's grant of a preliminary injunction should be reversed.

STATEMENT PURSUANT TO FED. R. APP. P. 29(c)(5)

No party to this proceeding authored any part of this brief. No party or counsel to any party to this proceeding, nor any other person other than *amici*, contributed money that was intended to fund preparing or submitting this brief.

ARGUMENT

The United States has well demonstrated the errors in the district court's holding that plaintiffs have a likelihood of success on the merits on their claim

under the Administrative Procedure Act. *Amici* focus here on the district court's failure to give appropriate consideration to the harms to the public interest that its preliminary injunction will cause. The grant of the preliminary injunction and corresponding delay in the implementation of the Executive Action is strongly contrary to the public interest, because the Executive Action will (a) increase public safety by encouraging immigrant residents to trust and cooperate with law enforcement; (b) fuel economic growth through job creation and new tax revenue; and (c) facilitate the full integration of immigrants into their communities and promote family unity. These important interests affect every resident of the ____ cities and counties that *amici* represent, day in and day out, and these interests must be taken into account when considering whether a preliminary injunction delaying implementation of the Executive Action pending the resolution of this case will serve, or disserve, the public interest. As *amici* demonstrate below, the Executive Action provides significant benefits to *amici* and the residents of *amici*'s cities and counties, and a delay in its implementation causes concrete and potentially irreversible harms.

I. The District Court Failed to Adequately Consider the Harm to the Public Interest

It is well established that plaintiffs are entitled to the extraordinary remedy of a preliminary injunction only if they can show (1) a likelihood of success on the merits; (2) a substantial threat of irreparable injury; (3) that the threatened injury outweighs any harm that will result if the injunction is granted; and (4) that the injunction will not disserve the public interest. *See Sells v. Livingston*, 750 F.3d 478, 480 (5th Cir. 2014). This Court reviews the district court’s analysis of these factors under an abuse of discretion standard, *see House the Homeless, Inc. v. Widnall*, 94 F.3d 176, 180 (5th Cir. 1996), but the Supreme Court has repeatedly confirmed that “[i]n exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction.” *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982); *see also Winter v. Natural Res. Defense Council, Inc.*, 555 U.S. 7, 24 (2008).

Here, however, the district court failed to “pay particular regard”—or, indeed, anything more than a superficial regard—for the harm that an injunction would cause to the public interest. *See* February 16, 2015 Mem. Op. and Order, Dkt. 145-2 at 120-121. Rather, based almost entirely on its finding that a single plaintiff State—Texas—would suffer irreparable harm because of the purported financial cost of processing additional driver’s license applications, the district court issued a nationwide injunction that has the direct effect of harming the public

interest across this country. In particular, the nationwide injunction runs counter to the interests expressed by the *amici* local governments that are represented here, as well as the expressed interests of 14 states and the District of Columbia, which filed their own amicus curiae brief in support of appellants.³

The district court erred in elevating the rather narrow economic interests of one plaintiff State over the countervailing and far broader public interests that the grant of the preliminary injunction will dramatically impair. This Court has stressed that when considering whether to issue a preliminary injunction, courts must look beyond “the immediate interests of the named litigants” and consider the widespread public interest that would be affected by granting or withholding the injunction. *Mississippi Power & Light Co. v. United Gas Pipe Line Co.*, 760 F.2d 618, 626 (5th Cir. 1985) (enjoining gas supplier from charging power company certain rates because of the “vital public interest involved in protecting the consumers of [the power company] against the harmful effect of overcharges”). But the district court failed to take into account any of the important benefits to *amici* and their residents that are discussed here and in the briefs of other *amici*.⁴

³ See *Texas v. United States*, No. 15-40238, Brief of the Amicus States of Washington, California, Connecticut, Delaware, Hawai’i, Illinois, Iowa, Maryland, Massachusetts, New Mexico, New York, Oregon, Rhode Island, and Vermont, and the District of Columbia, in Support of Motion to Stay District Court Preliminary Injunction, dated March 17, 2015.

⁴ See *Texas v. United States*, 1:14-cv-00254, Dkt. No. 81 (States’ Motion for Leave to Participate as Amici Curiae and Brief in Opposition to Plaintiffs’ Motion for Preliminary Injunction), Dkt. No. 83-1 (Amici Curiae Brief of Major Cities Chiefs Association, *et al.*, in Opposition to

The district court's disregard of the broader interests at play was improper, particularly since the public interest factor "primarily addresses impact on non-parties." *Hunter v. Hamilton County Bd. of Elections*, 635 F.3d 219, 244 (6th Cir. 2011) (internal quotation marks and citation omitted).

The district court's failure to properly consider the harm to the public interest was error, and its grant of a preliminary injunction should be reversed. *See, e.g., eBay Inc. v. MercExchange, LLC*, 547 U.S. 388, 394 (2006) (vacating judgment of court of appeals where "neither court below correctly applied the traditional four-factor framework that governs the award of injunctive relief"); *Edmisten v. Werholtz*, 287 F. App'x 728, 734-35 (10th Cir. 2008) (reversing and remanding the denial of a preliminary injunction due to the district court's failure to adequately analyze the public-interest prong).

II. Delaying the Implementation of the Executive Action Harms the Public Interest

A. The Executive Action Will Increase Public Safety by Encouraging More Immigrant Residents to Cooperate With Law Enforcement

The district court ignored the important interest of *amici* and the residents of *amici*'s cities and counties in increasing public safety, and further ignored that communities and their residents are harmed every day when benefits to the public

Plaintiffs' Motion for Preliminary Injunction), Dkt. No. 121 (Brief for Amici Curiae the Mayors of New York and Los Angeles, *et. al*, in Opposition to Plaintiffs' Motion for Preliminary Injunction).

safety are deferred. This Court has recognized that injunctions which limit the police's ability to conduct good-faith law enforcement efforts can cause "considerable potential harm to the public interest." *Spiegel v. Houston*, 636 F.2d 997, 1002 (5th Cir. 1981) (reversing as overbroad a preliminary injunction that prevented law enforcement from taking personal information from adult movie theater patrons under any circumstance). The district court's grant of a preliminary injunction preventing the implementation of the Executive Action will have just that effect, as it is likely to hinder the ability of local law enforcement to gain the trust and cooperation of many members of immigrant communities in reporting and investigating crimes.

It is beyond question that law enforcement officers and representatives of local government require the trust, support, and cooperation of their communities to be effective. To further the police-community bond, local law enforcement agencies have increasingly turned to "community policing," an approach to policing where officers engage the community as partners in the effort to reduce crime.⁵ However, as local leaders are keenly aware, undocumented immigrants

⁵ Anita Khashu, Police Foundation, *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties* vii, 24 (April 2009), available at <http://www.policefoundation.org/content/role-of-local-police>; see also Robert Wasserman, U.S. Department of Justice, Office of Community Oriented Policing Services, *Guidance for Building Communities of Trust* (2010), available at http://nsi.ncirc.gov/documents/e071021293_BuildingCommTrust_v2-August%2016.pdf (emphasizing the importance for communities and law enforcement to build and maintain trusting relationships to prevent acts of crime and terrorism).

often fear interactions with law enforcement and government officials because of concerns that government representatives will inquire about their immigration status or the status of a family member or friend.⁶ Any delay in the implementation of the Executive Action directly harms the ability of local law enforcement to protect the community because such delay maintains a major barrier – fear of deportation – preventing undocumented immigrants from contacting and working with police.

Trust in law enforcement among immigrant communities is particularly important when immigrants are victims or witnesses of crimes. The Major Cities Chiefs Association, a professional association of chiefs and sheriffs from the country's largest cities, has powerfully expressed the vital need to encourage immigrants' cooperation with law enforcement efforts:

Assistance and cooperation from immigrant communities is especially important when an immigrant, whether documented or undocumented, is the victim of or witness to a crime. These persons must be encouraged to file reports and come forward with information. Their cooperation is needed to prevent and solve crimes and

⁶ Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement* i-ii, 5-6 (May 2013), available at http://www.academia.edu/4738588/Insecure_Communities_Latino_Perceptions_of_Police_Involvement_in_Immigration_Enforcement (presenting findings from survey of approximately 2,000 Latinos in Chicago, Houston, Los Angeles, and Phoenix and their metropolitan areas that indicate heightening of fears among Latinos of local law enforcement and impact on crime reporting by immigrants and U.S.-born Latinos).

maintain public order, safety, and security in the whole community.⁷

Studies have shown that a large percentage of undocumented immigrants avoid law enforcement out of fear that contact with police could lead to deportation. For instance, a 2013 survey of more than 2,000 Latinos living in Chicago, Houston, Los Angeles, and Phoenix—cities with large immigrant populations—found that among undocumented immigrants, 70 percent were less likely to contact police officers if they were victims of a crime for fear police would ask about the immigrant’s immigration status, and 67 percent were less likely to voluntarily offer information about crimes or report a crime to police officers due to the same concerns.⁸

All residents of *amici*’s cities and counties are harmed each time that a person fails to report a crime or is in fear of working with police officers investigating a crime. Unfortunately, immigrants are particularly susceptible as victims. Criminals know that many immigrants are reluctant to report crimes out of a concern that police officers will question them about their immigration status

⁷ Major Cities Chiefs Immigration Committee, *Recommendations: For Enforcement of Immigration Laws by Local Police Agencies* 5 (June 2006), available at http://www.houstontx.gov/police/pdfs/mcc_position.pdf (noting also that “[l]ocal police contacts in immigrant communities are important as well in the area of intelligence gathering to prevent future terroristic attacks and strengthen homeland security”).

⁸ Theodore, *supra* note 6, at 5-6.

or the immigration status of a friend or family member.⁹ The concern that interactions with police will lead to the identification and deportation of a family member affects a large number of immigrants: it is estimated that 85 percent of immigrants are part of families where some members are undocumented.¹⁰

When perpetrators of crime remain free, the victim of the crime remains vulnerable and afraid of further harm, and criminals are able to target other innocent and unsuspecting victims.¹¹ This cycle of crime, victimization, and fear of cooperation with police harms all of *amici*'s constituents. And once suffered, these harms cannot be reversed: each victim who is afraid to report a crime or work with police may be preventing the arrest and prosecution of a violent criminal, who is then free and enabled to commit further crimes.

While the Executive Action will not eliminate completely the concerns that many immigrants express in cooperating with law enforcement, by allowing a larger number of otherwise law-abiding immigrants to formalize their deferred status, the Executive Action will increase trust and reduce trepidation of engaging

⁹ Matthew Lysakowski, *et al.*, U.S. Dep't of Justice, *Policing in New Immigrant Communities* 3 (June 2009), available at <http://vera.org/sites/default/files/resources/downloads/e060924209-NewImmigrantCommunities.pdf>.

¹⁰ Khashu, *supra* note 5, at vii, 24.

¹¹ See Amy Braunschweiger, Human Rights Watch, *Nashville Immigrants Too Scared to Call the Police* (May 19, 2014), available at <http://www.hrw.org/news/2014/05/19/nashville-immigrants-too-scared-call-police> (describing experience of a Nashville immigrant mother's fear of calling police after her daughter was assaulted).

with law enforcement. The Executive Action is expected to make up to 4 million people eligible for deferred action and a corresponding formalization of their ability to stay in the United States on a temporary basis.¹² To qualify for deferred action, immigrants will have to come forward and interact with government officials in ways that they may have been hesitant to do previously. For instance, immigrants applying for deferred action and work authorization under the Executive Action would have to register, submit biometric data, pass background checks, and pay fees, among other requirements.¹³

By allowing a larger number of immigrants to formalize their deferred status, obtain work authorization, and experience that interactions with government are not events to be feared, the Executive Action will increase trust and eliminate barriers between law enforcement and members of immigrant communities, some of whom have lived in their communities for many years and would be valuable resources to law enforcement. A preliminary injunction directly and immediately harms the interest of *amici* and their constituents because it prevents the

¹² Press Release, Migration Policy Institute, As Many as 3.7 Million Unauthorized Immigrants Could Get Relief from Deportation under Anticipated New Deferred Action Program (Nov. 19, 2014), *available at* <http://migrationpolicy.org/news/mpi-many-37-million-unauthorized-immigrants-could-get-relief-deportation-under-anticipated-new> (estimating 3.7 million DAPA-eligible immigrants and 290,000 additional DACA-eligible immigrants under the expansion of the program).

¹³ *Executive Actions on Immigration*, U.S. Citizenship and Immigration Services, <http://www.uscis.gov/immigrationaction> (last visited Mar. __, 2015).

implementation of an important immigration enforcement policy that would lead to improved public safety for the entire community.

B. The Executive Action Will Stimulate Economic Growth in Cities and Counties Nationwide

The preliminary injunction entered below will also forestall substantial economic benefits that the Executive Action will yield for communities and neighborhoods across the country. Although the district court considered the purported economic harm to Texas that would result from processing additional driver's license applications while this action was pending, that purported harm is dwarfed by the significant economic benefits that the Executive Action's implementation will produce—benefits that would accrue day by day. The government leaders and cities represented in this brief have seen first-hand that their cities and counties receive a significant economic boost from the presence of immigrants in the work force. By allowing a greater number of qualifying undocumented workers to obtain authorization to work, as the Executive Action is expected to do, the Executive Action furthers the economic interest of *amici* and the public.

As part of its consideration of the public interest prong of the preliminary injunction standard, the district court should have accounted for how the Executive Action affects the public's economic interests. *See, e.g., Amoco Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 545-46 (1987) (rejecting balancing test that elevated

environmental subsistence concerns over public's interest in development of energy resources); *Productos Carnic, S.A. v. Central Am. Beef & Seafood Trading Co.*, 621 F.2d 683, 687 (5th Cir. 1980) (noting that public interest favors economic efficiency); *Springer v. United States Marshal*, 137 F. App'x. 657, 658 (5th Cir. 2005) (noting that appellants' request for an injunction barring federal funding for a local detention center "is completely at odds with the public interest, inasmuch as it would create serious economic problems for [the local county]").

Cities have long benefitted economically from growth in their immigrant populations. In New York City, for instance, following lean economic years in the 1970s and a decline in population, the city's focus on building up its service industries attracted an influx of immigrants, whose "relative youth and economic activity" ushered in an "era of renewal and growth."¹⁴ Similarly, in Los Angeles County, the "wave of new foreign-born residents" moving to the area between 1970 and 2010 is credited with helping the county maintain its status as the largest major manufacturing center in the United States.¹⁵

¹⁴ N.Y. City Dep't of City Planning, *The Newest New Yorkers: Characteristics of the City's Newest Foreign-born Population* 1 (2013), available at <http://www.nyc.gov/html/dcp/pdf/census/nnny2013/chapter1.pdf>.

¹⁵ Jacob L. Vigdor, *Immigration and the Revival of American Cities* 8 (Sept. 2013), available at <http://www.renewoureconomy.org/wp-content/uploads/2013/09/revival-of-american-cities.pdf> (concluding that when 1,000 immigrants move to an area 46 manufacturing jobs are created or preserved, thus the influx of 2.7 million immigrants to Los Angeles County between 1970 and 2010 helps explain why Los Angeles lost relatively fewer manufacturing jobs during that time,

In addition to New York City and Los Angeles County, many other localities have recognized that immigrants—including undocumented immigrants—are a source of needed vitality, including economic vitality, as is evident from the creation of dedicated city-funded offices supporting immigrants' well-being, regardless of the immigrants' federal immigration status.¹⁶ Further, in some cities

as compared to Chicago, the second-largest manufacturing center in the United States, which added only 600,000 immigrants from 1970 to 2010).

¹⁶ Boston, Baltimore, Chicago, New York City, Philadelphia, Houston, Los Angeles, San Francisco, and Seattle have offices and staff dedicated to supporting immigrants. See City of Baltimore, Mayor's Office of Immigrant and Multicultural Affairs, <http://mayor.baltimorecity.gov/node/2229> (last visited Jan. 22, 2015); City of Boston, Mayor's Office of New Bostonians, <http://www.cityofboston.gov/newbostonians/> (last visited Jan. 22, 2015); City of Chicago, Office of New Americans, http://www.cityofchicago.org/city/en/depts/mayor/provdrs/office_of_new_americans.html (last visited Jan. 22, 2015); City of Houston, Office of International Communities, <http://www.houstontx.gov/oic> (last visited Jan. 22, 2015); Office of Los Angeles Mayor Eric Garcetti, Mayor's Office of Immigrant Affairs, <http://www.lamayor.org/immigrants> (last visited Jan. 22, 2015); New York City Mayor's Office of Immigrant Affairs, <http://www.nyc.gov/html/imm/html/home/home.shtml> (last visited Jan. 22, 2015); City of Philadelphia, Immigrant and Multicultural Affairs <http://www.phila.gov/ima/Pages/default.aspx> (last visited Jan. 22, 2015); City of San Francisco, Office of Civic Engagement & Immigrant Affairs, <http://sfgsa.org/index.aspx?page=957> (last visited Jan. 22, 2015); City of Seattle, Office of Immigrant and Refugee Affairs, <http://www.seattle.gov/office-of-immigrant-and-refugee-affairs> (last visited Jan. 22, 2014).

Other cities and counties including Atlanta, Austin, Charlotte, Pittsburgh, Portland, St. Louis, Allegheny County, Pennsylvania, and Montgomery County, Maryland, also have launched immigrant-integration initiatives. See City of Atlanta, *Mayor Kasim Reed and City of Atlanta Announce Results of Welcoming America Working Group*, Sept. 17, 2014, <http://www.atlantaga.gov/index.aspx?recordid=3041&page=672>; City of Austin, *Austin Promotes Immigrant-Friendly, Welcoming Environment*, June 27, 2013, <http://austintexas.gov/news/austin-promotes-immigrant-friendly-welcoming-environment>; City of Charlotte, Immigrant Integration Task Force, <http://charmeck.org/city/charlotte/cic/getinvolved/pages/immigrant-integration-task-force.aspx> (last visited Jan. 22, 2015); Office of Pittsburgh Mayor William Peduto, *Mayor William Peduto launches Welcoming Pittsburgh Initiative*, May 28, 2014, <http://pittsburghpa.gov/mayor/release?id=3112>; City of Portland, Diversity and Civic Leadership Program, <http://www.portlandoregon.gov/oni/45147> (last visited Jan. 22, 2015); *St. Louis Mosaic*

and counties that have experienced recent economic struggles, organizations have launched immigrant-integration initiatives “as a means to produce jobs and regional economic growth,”¹⁷ and government officials have lauded how immigrant populations have “renovated and revitalized whole neighborhoods.”¹⁸

A major reason that cities and counties have taken these steps to support the integration of immigrants in their communities is the proven boost that results for local economies and local labor markets. For instance, a 2012 report by the Partnership for a New American Economy estimated that immigrants started 28 percent of all new businesses in the country in 2011, and that immigrant-owned businesses generate more than \$775 billion in revenue, \$125 billion in payroll, and \$100 billion in income, as well as employing one out of every 10 workers in the

Project, <http://www.stlmosaicproject.org/> (last visited Jan. 22, 2015) (city-funded regional initiative launched in 2012 to welcome immigrants to St. Louis); Allegheny County, *A Welcoming America County*, <http://www.alleghenycounty.us/executive/WelcomingAmerica.aspx> (last visited Mar. 19, 2015); Montgomery County Charles W. Gilchrist Center for Cultural Diversity, <http://www.montgomerycountymd.gov/gilchrist/index.html> (last visited Mar. 19, 2015).

¹⁷ See Global Detroit, About Us, <http://www.globaldetroit.com/about> (describing Global Detroit as a non-profit that focuses on revitalizing “Michigan’s economy by pursuing strategies that strengthen Detroit’s connections to the world to make the region more attractive and welcoming to immigrants, internationals, and foreign trade and investment as a means to produce jobs and regional economic growth”) (last visited Mar. ____, 2015).

¹⁸ Susan Hartman, *A New Life for Refugees, and the City They Adopted*, N.Y. Times, Aug. 10, 2014, http://www.nytimes.com/2014/08/11/nyregion/a-new-life-for-refugees-and-the-city-they-adopted.html?_r=0 (quoting Oneida county executive Anthony J. Picente Jr.); cf. Julia Preston, *Ailing Midwestern Cities Extend a Welcoming Hand to Immigrants*, N.Y. Times, Oct. 6, 2013, at <http://www.nytimes.com/2013/10/07/us/ailing-cities-extend-hand-to-immigrants.html> (noting welcoming attitudes among local officials in Dayton towards undocumented immigrants).

United States.¹⁹ Immigrants have a particularly significant footprint when it comes to the creation and management of businesses that make up the “backbone” of local communities; a January 2015 report showed that in 2013, immigrants in the United States made up 61 percent of all gas station owners, 58 percent of dry cleaners owners, 53 percent of grocery store owners, 45 percent of nail salon owners, 43 percent of liquor store owners, 38 percent of restaurant owners, and 32 percent of both jewelry and clothing store owners.²⁰ And research shows that the employment opportunities created by immigrant-owned businesses and immigration in general have a long-term beneficial effect on all U.S. workers, including U.S.-born wage earners.²¹

While immigration in general provides long-term economic benefits for cities, counties, and wage-earners, the implementation of the Executive Action also

¹⁹ Robert W. Fairlie, Partnership for a New American Economy, *Open for Business: How Immigrants are Driving Small Business Creation in the United States* 3 (August 2012), available at <http://www.renewoureconomy.org/sites/all/themes/pnae/openforbusiness.pdf>.

²⁰ Americas Society/Council of the Americas & Fiscal Policy Institute, *Bringing Vitality to Main Street: How Immigrant Small Businesses Help Local Economies Grow* 2 (January 2015), available at <http://fiscalpolicy.org/wp-content/uploads/2015/01/Bringing-Vitality-to-Main-Street.pdf>.

²¹ Heidi Shierholz, Econ. Policy Inst. Briefing Paper No. 255, *Immigration and Wages: Methodological Advancements Confirm Modest Gains for Native Workers* 19-20 (Feb. 4, 2010), available at <http://www.epi.org/files/page/-/bp255/bp255.pdf> (finding that between 1994 and 2007, immigration caused a 0.4 percent increase in wages for U.S.-born workers, relative to foreign-born workers); see also Gianmarco I.P. Ottaviano & Giovanni Peri, Nat’l Bureau of Econ. Research, *Rethinking the Effects of Immigration on Wages* 4 (2006, revised 2008), available at <http://www.nber.org/papers/w12497> (finding that U.S.-born workers’ wages increased 0.7 percent due to immigration between 1990 to 2004).

would create an immediate economic spark for those groups. On a national level, one study estimates that if 3.8 million people obtained work permits through the Executive Action, it would lead to a labor income increase of \$7.1 billion, which will result in more than \$2.6 billion in new tax revenue and the creation of more than 167,000 new jobs.²² Another study concludes that if 4.7 million people obtained work permits through the Executive Action, it would result in increased payroll tax revenues of \$2.87 billion in the first year and \$21.24 billion in the first five years of the program.²³ Moreover, providing work authorization to individuals covered by the Executive Action is certain to improve worker protections, minimizing wage theft and the loss in tax revenue from the wage theft.²⁴

The economic benefit of the Executive Action can be quantified on a local level as well. Taking New York City as an example, if, as some studies have found, an undocumented worker's wages increase by seven percent when he or she

²² Raul Hinojosa-Ojeda and Maksim Wynn, UCLA North American Integration and Development Center, *From the Shadows to the Mainstream: Estimating the Economic Impact of Presidential Administrative Action and Comprehensive Immigration Reform* 32 (Nov. 21, 2014), available at http://naid.ucla.edu/uploads/4/2/1/9/4219226/ucla_naid_center_report_-_estimating_the_economic_impact_of_presidential_administrative_action_and_comprehensive_immigration_reform.pdf.

²³ Patrick Oakford, Center for American Progress, *Administrative Action on Immigration Reform: The Fiscal Benefits of Temporary Work Permits* 9 (2014), available at <http://cdn.americanprogress.org/wp-content/uploads/2014/09/OakfordAdminRelief.pdf>.

²⁴ *Id.* at 5 (“The interaction between our broken immigration system and employment and labor laws have made undocumented workers more susceptible to exploitation in the workplace, leading them to earn lower wages than they otherwise could.”).

obtains authorization to work,²⁵ then an undocumented worker in New York City currently making \$3,200 a month—the average monthly wage for undocumented workers in New York state²⁶—is missing out on an average of \$224 every month in marginal wage gains that he or she would earn if the Executive Action were in place. If even only 100,000 undocumented workers in New York City who obtained temporary work authorization were taxed on their additional \$224 in earnings at 7.1 percent—the estimated effective tax rate for undocumented workers in New York state²⁷—then the state and the city would reap more than \$1.5 million *monthly* in marginal state and local tax revenue.²⁸ Certainly, a delay in the Executive Action’s implementation directly harms local economies and residents

²⁵ Raul Hinojosa-Ojeda and Maksim Wynn, *supra* n. ___, at 12 (table comparing income impact by legal status); *see also* Silva Mathema, Center for American Progress, *The High Costs of Delaying Executive Action on Immigration* (March 13, 2015), available at <https://www.americanprogress.org/issues/immigration/news/2015/03/13/108768/the-high-costs-of-delaying-executive-action-on-immigration> (estimating that work authorization increases earnings of an undocumented worker by nearly 8.5 percent).

²⁶ Institute on Taxation and Economic Policy, *Undocumented Immigrants’ State and Local Tax Contributions* 9 (July 2013), available at <http://www.itep.org/pdf/undocumentedtaxes.pdf> (estimating \$38,400 in annual income for average undocumented worker in New York state).

²⁷ *Id.* at 7.

²⁸ The number of individuals in New York City likely to be eligible for temporary work authorization under the Executive Action is likely to be far greater than 100,000 and is perhaps as high as 183,000. *See* Migration Policy Institute, *Unauthorized Immigrant Population Profiles: County Profiles* (2015), available at <http://www.migrationpolicy.org/programs/us-immigration-policy-program-data-hub/unauthorized-immigrant-population-profiles> (follow link to “County-Level Estimates on DACA & DAPA Populations,” estimating population eligible for expanded DACA and DAPA in New York City’s five counties—New York, Kings, Queens, the Bronx, and Richmond) (last visited Mar. ___, 2015).

by reducing the potential tax revenues for cities and counties, reducing the subsequent public spending and benefits that would come from that tax revenue, and limiting the increased economic activity that would result from additional income among immigrant households.

Past experience also suggests that the Executive Action will rapidly improve the economic outlook for many of the currently undocumented workers living in *amici*'s cities and counties. Studies tracking how the 2012 Deferred Action for Childhood Arrivals Program ("2012 DACA") affected young adults show marked progress for those individuals in several economic indicators. For instance, a survey of nearly 2,400 individuals who received 2012 DACA showed that within two years, almost 60 percent of beneficiaries obtained a new job, and 45 percent increased their salaries.²⁹ Further, 49 percent of those surveyed opened their first bank accounts within two years after receiving 2012 DACA, and 33 percent obtained their first credit card.³⁰

The Executive Action will similarly benefit a broad group of immigrants who already have significant ties to *amici*'s cities and counties and who already contribute economically in various ways. By formalizing the work status of

²⁹ Roberto Gonzales & Angie M. Bautista-Chavez, American Immigration Council, *Two Years and Counting: Assessing the Growing Power of DACA* 3 (June 2014), available at <http://www.immigrationpolicy.org/special-reports/two-years-and-counting-assessing-growing-power-daca>.

³⁰ *Id.*

hundreds of thousands of wage-earners, the Executive Action will increase wage levels and tax revenues in the *amici*'s jurisdictions. Preventing the immediate implementation of the Executive Action will have the opposite effect, depriving local governments and residents of these proven economic benefits. Such a result would be contrary to the public interest.

C. The Executive Action Will Promote Family Unity and Facilitate the Integration of Immigrant Residents in Cities Nationwide

The profound importance of family unity is codified in the nation's immigration laws³¹ and recognized as a protected liberty interest under the U.S. Constitution. *See, e.g., Moore v. City of East Cleveland*, 431 U.S. 494, 503 (1977) (“[O]ur decisions establish that the Constitution protects the sanctity of the family precisely because it is deeply rooted in the Nation’s history and tradition.”); *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (noting that “[t]he Court has frequently emphasized the importance of the family”). The *amici* mayors, county executives, and local governments have a strong interest in federal action that promotes family unity because a rupture in the family unit results in many potentially harmful outcomes that often fall to local governments to address, such

³¹ *See, e.g.,* 8 U.S.C. § 1254a(c)(2)(A)(ii) (allowing the Attorney General to find certain individuals eligible for Temporary Protected Status “for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest”); 8 U.S.C. § 1182(d)(11) (providing Attorney General with discretionary waiver of exclusion in certain circumstances, including to “assure family unity”); *Holder v. Martinez Gutierrez*, ___ U.S. ___, 132 S. Ct. 2011, 2019 (2012) (noting that “promoting family unity” is one of the goals that “underlie or inform many provisions of immigration law”).

as reduced household income, increased reliance on public benefits and services, increased occurrences of negative health consequences for children, and a greater likelihood of educational problems for children. Further, *amici* have a strong interest in the full integration of all residents, including immigrants, into the fabric of the community. The district court wrongly failed to consider any of these important public interests.

Delayed implementation of the Executive Action forces immigrant families in mixed-status households—households where some members are documented or U.S. citizens and some are undocumented—to live under an ongoing fear of deportation and separation from their loved ones.³² The plain reality is that families are routinely torn apart through the enforcement of the immigration laws. For instance, in New York City from 2005 to 2010, 87 percent of the parents of U.S. citizen children that federal immigration authorities apprehended were

³² An estimated 5.5 million U.S. citizen children live with an undocumented parent who is eligible for DAPA. See Manuel Pastor, *et al.*, University of Southern California Dornsife Center for the Study of Immigrant Integration, *The Kids Aren't Alright – But They Could Be: The Impact of Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) on Children* (March 2015), available at http://dornsife.usc.edu/assets/sites/731/docs/DAPA_Impact_on_Children_CSII_Brief_Final_01.pdf; see also Paul Taylor, *et al.*, Pew Research Center, *Unauthorized immigrants: Length of Residency, Patterns of Parenthood* (Dec. 1, 2011), available at <http://www.pewhispanic.org/2011/12/01/unauthorized-immigrants-length-of-residency-patterns-of-parenthood> (estimating that 9 million people live in mixed-status families that include at least one undocumented adult and one U.S.-born child).

deported,³³ and nationally 46,000 parents of citizen children were deported in the first six months of 2011 alone.³⁴

The broader community and local government, as well as immigrant families themselves, are harmed when deportation ruptures family unity. From a community and government perspective, the splitting of families through deportation results in direct financial costs. Children in single-parent households are more than four times as likely to live in poverty than are children with married parents,³⁵ and households that lose the family breadwinner due to immigration enforcement experience “steep declines” in income, housing instability, and food insufficiency, resulting in increased reliance on public benefits.³⁶ Deportations that split up families also cause increased stress upon already busy public service

³³ N.Y. Univ. School of Law Immigrant Rights Clinic, *Insecure Communities, Devastated Families: New Data on Immigrant Detention and Deportation Practices in New York City* 18 (2012), available at <http://immigrantdefenseproject.org/wp-content/uploads/2012/07/NYC-FOIA-Report-2012-FINAL.pdf>.

³⁴ Seth Freed Wessler, *U.S. Deports 46K Parents with Citizen Kids in Just Six Months*, Colorlines, Nov. 3, 2011, available at http://colorlines.com/archives/2011/11/shocking_data_on_parents_deported_with_citizen_children.html.

³⁵ Joanna Dreby, Center for American Progress, *How Today's Immigration Enforcement Policies Impact Children, Families, and Communities* 9 (August 2012), available at <http://cdn.americanprogress.org/wp-content/uploads/2012/08/DrebyImmigrationFamiliesFINAL.pdf>.

³⁶ Ajay Chaudry, et al., Urban Institute, *Facing Our Future: Children in the Aftermath of Immigration Enforcement* viii-ix (February 2010), available at http://www.urban.org/uploadedpdf/412020_FacingOurFuture_final.pdf at viii-ix (examining consequences of parental arrest, detention, and deportation on 190 children in 85 families in six locations in the U.S.).

systems, such as the foster care system. One study estimates that in 2011 there were 5,100 children in foster care nationwide whose parents had been either detained or deported,³⁷ placing increased strain upon local governments' foster care systems and on the child whose parents could no longer provide care and comfort.

From a family perspective, research has shown that children left behind after the deportation of a family member may experience a number of significant health setbacks and have a greater likelihood of struggling in school and even dropping out completely. For instance, interviews with a sample of children who had experienced separation from a parent within the last six months due to immigration detention found that in addition to approximately two-thirds of the children having trouble eating and sleeping, more than 40 percent were considered "anxious" or "withdrawn" and only slightly fewer were "angry or aggressive."³⁸ The same

³⁷ Seth Freed Wessler, Applied Research Center, *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System* 6 (November 2011), available at http://www.atlanticphilanthropies.org/sites/default/files/uploads/ARC_Report_Shattered_Families_FULL_REPORT_Nov2011Release.pdf.

³⁸ Chaudry, *et al.*, *supra* n. ___, at 41-42; *see also id.* at 41-53 (detailing short-term and long-term behavior changes among children who experienced separation from parents due to immigration enforcement); Kalina Brabeck, *et al.*, Report for the Inter-American Human Rights Court, *The Psychosocial Impact of Detention and Deportation on U.S. Migrant Children and Families* 5 (August 2013), available at <http://www.bc.edu/content/dam/files/centers/humanrights/doc/IACHR%20Report%20on%20Psychosocial%20Impact%20of%20Detention%20%20Deportation-FINAL%208-16-13.pdf> ("The physical separation between a parent and child, particularly when unexpected as in the case of deportation, disrupts the essential secure base, risking internalizing symptoms (depression,

study also reported instances where non-arrested parents were afraid to return their children to school after the arrest of one parent on immigration-related charges, while older students occasionally dropped out of school entirely to assist non-arrested parents or siblings.³⁹ The *amici* local governments have a significant public health interest in ensuring that all children in their communities – children of undocumented immigrants included – are healthy, educated, and able to participate in community life.

The implementation of the Executive Action will promote family well-being and children's health by offering stability and reassurance to the millions of children whose parents can apply for temporary relief from deportation through DAPA. This is a key benefit because studies show that children's health is negatively impacted simply by the *threat* that a close family member will be detained or deported. As the nation's immigration issues and policies are frequently discussed in the media and in immigrant communities, immigrant children and adults develop understandable fears about visiting public spaces and engaging with government and law enforcement officials.⁴⁰ Children of immigrants also begin to associate all immigrants with illegality and link their own

anxiety), externalizing behaviors (withdrawal, aggression), and social and cognitive difficulties.”).

³⁹ Chaudry, *et al.*, *supra* n. ___, at 49-50.

⁴⁰ Dreby, *supra* n. ___, at 21.

immigrant heritage with feelings of shame.⁴¹ The Executive Action will help address these ongoing negative impacts on family well-being and children's health; delay in implementation obstructs these much-needed social benefits to the detriment of cities and counties.⁴²

Amici have a strong interest in ensuring that all members of the community feel comfortable getting involved in local issues and community affairs, whether that means volunteering in local schools, participating in community board meetings, or simply interacting with their local governments. The Executive Action will increase civic engagement because, for those that qualify, it will remove the threat that interactions with school officials, law enforcement, and other local government officials will result in arrest or deportation.

Allowing the federal government to implement the Executive Action will help to prevent the splitting of families due to deportation and directly encourage greater immigrant participation in community life while this action is pending. For

⁴¹ *Id.* at 27-28; see also Max Ehrenfreund, *How having an undocumented parent hurts American children*, Wash. Post, March 4, 2015, <http://www.washingtonpost.com/blogs/wonkblog/wp/2015/03/04/how-having-an-undocumented-parent-hurts-american-children> (reporting on study of Los Angeles households that surveyed 2,535 children and determined that even young children of undocumented parents are aware of the risks of family separation and feel shame about their family's immigration status).

⁴² See Joanna Dreby, Center for American Progress, *Executive Action on Immigration will Help Children and Families* (March 3, 2015), available at <https://www.americanprogress.org/issues/immigration/news/2015/03/03/107769/executive-action-on-immigration-will-help-children-and-families/?elqTrackId=1728770977694509a243555a81ef9d2e&elqaid=24822&elqat=1> (emphasizing the toll that immigration system has on American families and the potential for improvement due to the Executive Action).

this reason, too, the preliminary injunction blocking implementation of the Executive Action is contrary to the public interest.

CONCLUSION

For the reasons set forth in this Brief, as well as those set forth by appellants and their other supporting *amici*, the district court's grant of a preliminary injunction should be reversed.

Respectfully submitted,

March __, 2015

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From: [Cownie, Frank](#)
To: [McCroskey, Monica J.](#)
Subject: Fwd: Letter of support
Date: Wednesday, October 12, 2016 2:43:03 PM

Sent from my iPhone

Begin forwarded message:

From: <FCownie@DMGOV.ORG>
Date: October 12, 2016 at 12:50:53 PM CDT
To: Scott Sanders <sesanders@dmgov.org>
Subject: Letter of support

What do you think?

Ms. Becky Swift
Certificate of Need Program
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, IA 50319-0075

Re: Letter of Support for Additional Beds at Younker Rehabilitation Center

Dear Ms. Swift,

I am writing to express my support for Iowa Methodist Medical Center's request for additional inpatient rehabilitation beds at its existing Younker Rehabilitation Center. Iowa Methodist is a not-for-profit hospital that serves as a safety net for our low income residents and other persons who might not otherwise have access to these high quality comprehensive health care services. Methodist's renovation of existing space allows for the expansion of this needed service in the most cost effective manner possible.

Younker Rehabilitation Center is a regional center of excellence that has served the rehab needs of residents of Des Moines and the surrounding communities for nearly 60 years. In addition to this valuable healthcare service, Younker Rehabilitation provides employment opportunities for more than 50 residents of central Iowa. The City of Des Moines looks forward to Younker's continuing and expanding presence in the heart of Des Moines.

Des Moines' position at the center of central Iowa's growing population, combined with Methodist's location adjacent to Interstate 235 make it an ideal location for serving the needs of Iowa's patients. This central location for rehab services allows easy access for patients and their family members.

Accordingly, I respectfully urge approval as this matter comes before the State Health Facilities Council.

Sincerely,

Frank Cownie,
Mayor
Sent from my iPhone

From: Dave Gatton
To: [Fcownie; Cownie, Frank](#)
Subject: Fwd: Mayor Cownie and USCM/AARP Survey
Date: Tuesday, September 27, 2016 12:57:14 PM
Attachments: [AGINGSURVEY_USMAYORS_2016.pdf](#)

frank, Can you have someone complete this quick aging survey. I don't think it takes much time. Dave Gatton

----- Forwarded message -----

From: Crystal Swann <cswann@usmayors.org>
Date: Tue, Sep 27, 2016 at 12:51 PM
Subject: Mayor Cownie and USCM/AARP Survey
To: Dave Gatton <dgatton@usmayors.org>

Dave can you pass this along to Mayor Cownie. Des Moines is one of their target cities...
Thank you!

Hey Mayor Cownie,

I hope you are doing well. I have a request. Can you get someone in your office to complete the aging survey for Des Moines. I know this is an important issue to the mayor and we really want to make sure that Des Moines is included in the report we are issuing in January.

Here is the link to the survey: usmayors.org/aging and I've attached a hardcopy of the survey to this email.

The survey should take about 10 minutes to complete.

Thank you so much for your help.

--

Crystal D. Swann
Assistant Executive Director
Children, Health and Human Services
US Conference of Mayors
[202-861-6707](tel:202-861-6707) (direct)

--

Dave Gatton
Director, Council on Metro Economies and the New American City
U.S. Conference of Mayors
1620 Eye Street N.W.
Washington, D.C. 20006, 4th Floor
O: 202-861-6712
C: 202-957-6530

2016 U.S. Conference of Mayors Survey
(Survey Sample: Members of the U.S. Conference of Mayors)

PLEASE NOTE: THIS PDF IS FOR INFORMATIONAL PURPOSES ONLY. PLEASE COMPLETE THE ONLINE VERSION OF THE SURVEY AT WWW.USMAYORS.ORG/AGING.

The quality of life of older adults that is people age 50 and older, is greatly enhanced when communities in which they live provide appropriate infrastructure and services in the way of jobs, transportation, housing, entertainment, and access to health care. These features within communities, provided not just to older individuals, but to all community residents, help make cities and towns throughout the country more “livable.” A livable community allows older residents to live out their lives in their own homes and communities surrounded by family and friends for as long as possible.

Overall, a “livable community” is safe and secure, has affordable and appropriate housing and transportation options, and offers supportive community features and services for older adults and people of all ages. As city populations age, policy solutions and innovations are needed to ensure that local infrastructure can continue to support older adults, which ultimately benefits all residents.

This survey is intended to capture your thoughts on the initiatives, innovations, and policy solutions you perceive are most important to help make the communities in your cities more livable for all. This information will assist the USCM and AARP in developing the Aging Task Force initiatives.

Q1. How important are aging issues to your city? **[CHECK ONLY ONE ANSWER.]**

<input type="checkbox"/>	Extremely important
<input type="checkbox"/>	Very important
<input type="checkbox"/>	Somewhat important
<input type="checkbox"/>	Not very important
<input type="checkbox"/>	Not at all important

Q2. The next question is for internal use only and will not be publicly released. Please describe how you and your community define “aging issues?”

Q3. Have you implemented an aging-related task force or initiatives to assist your city in becoming a livable community (a community where all residents can age in place)? **[CHECK ONLY ONE ANSWER.]**

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

Q4. How much of a priority is it to you to have an aging-related task force or initiatives to work on livable community issues in your city? [**CHECK ONLY ONE ANSWER.**]

<input type="checkbox"/>	Top priority
<input type="checkbox"/>	High priority
<input type="checkbox"/>	Medium priority
<input type="checkbox"/>	Low priority
<input type="checkbox"/>	Not a priority

Q5. The next few questions focus on **health and wellness**. Please rate the priority of the following health and wellness initiatives in your city. [**CHECK ONLY ONE BOX PER ITEM (A, B, C).**]

		Top Priority	High Priority	Medium Priority	Low Priority	Not a Priority
a.	Fitness activities specifically geared towards older adults	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Health and wellness programs and classes in areas like nutrition and weight control	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Easy access to health and supportive services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q6. Of the 3 **health and wellness** initiatives you just rated, which one will have the MOST impact on making your city a livable community? [**CHECK ONLY ONE ITEM.**]

<input type="checkbox"/>	Fitness activities specifically geared towards older adults
<input type="checkbox"/>	Health and wellness programs and classes in areas like nutrition and weight control
<input type="checkbox"/>	Easy access to health and supportive services

Q7. The next few questions focus on **social activities**. Please rate the priority of the following social activity initiatives in your city. **[CHECK ONLY ONE PER ITEM (A, B, C, D, E).]**

		Top Priority	High Priority	Medium Priority	Low Priority	Not a Priority
a.	Entertainment venues that are convenient and accessible for people of different physical abilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Entertainment and activities that are affordable to everyone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Activities that involve both younger and older people	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	A variety of cultural entertainment and activities for diverse populations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	Cultural entertainment and activities that offer senior discounts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q8. Of the 5 **social activity** initiatives you just rated, which one will have the MOST impact on making your city a livable community? **[CHECK ONLY ONE ITEM.]**

<input type="checkbox"/>	Entertainment venues that are convenient and accessible for people of different physical abilities
<input type="checkbox"/>	Entertainment and activities that are affordable to everyone
<input type="checkbox"/>	Activities that involve both younger and older people
<input type="checkbox"/>	A variety of cultural entertainment and activities for diverse populations
<input type="checkbox"/>	Cultural entertainment and activities that offer senior discounts

Q9. The next few questions focus on **workforce development**. Please rate the priority of the following workforce development initiatives in your city. [**CHECK ONLY ONE BOX PER ITEM (A, B, C, D, E).**]

		Top Priority	High Priority	Medium Priority	Low Priority	Not a Priority
a.	A range of flexible job opportunities for older adults	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Jobs that are adapted to meet the needs of people with disabilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Job training opportunities for older adults	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Policies that ensure older adults continue to have equal opportunity to work for as long as they want or need to regardless of their age	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	Flexible leave options for family caregivers who are working	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q10. Of the 5 **workforce development** initiatives you just rated, which one will have the MOST impact on making your city a livable community? [**CHECK ONLY ONE ITEM.**]

<input type="checkbox"/>	A range of flexible job opportunities for older adults
<input type="checkbox"/>	Jobs that are adapted to meet the needs of people with disabilities
<input type="checkbox"/>	Job training opportunities for older adults
<input type="checkbox"/>	Policies that ensure older adults continue to have equal opportunity to work for as long as they want or need to regardless of their age
<input type="checkbox"/>	Flexible leave options for family caregivers who are working

Q11. The next few questions focus on **housing**. Please rate the priority of the following housing initiatives in your city. [**CHECK ONLY ONE BOX PER ITEM (A, B, C, D, E).**]

		Top Priority	High Priority	Medium Priority	Low Priority	Not a Priority
a.	Homes that are constructed or renovated to allow easy access into and within the home	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Housing options for adults of varying income levels such as affordable housing, older active adult communities, accessory dwelling units, and assisted living	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Housing that is located close to stores, transportation, health care facilities and other community services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Incentives that encourage homeowners to make home modifications that allow them to age in place	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	Incentives that encourage the building of low-income housing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q12. Of the 5 **housing** initiatives you just rated, which one will have the MOST impact on making your city a livable community? [**CHECK ONLY ONE ITEM.**]

<input type="checkbox"/>	Homes that are constructed or renovated to allow easy access into and within the home
<input type="checkbox"/>	Housing options for adults of varying income levels such as affordable housing, older active adult communities, accessory dwelling units, and assisted living
<input type="checkbox"/>	Housing that is located close to stores, transportation, health care facilities and other community services
<input type="checkbox"/>	Incentives that encourage homeowners to make home modifications that allow them to age in place
<input type="checkbox"/>	Incentives that encourage the building of low-income housing

Q13. The next few questions focus on **technology**. Please rate the priority of the following technology initiatives in your city. [**CHECK ONLY ONE BOX PER ITEM (A, B, C).**]

		Top Priority	High Priority	Medium Priority	Low Priority	Not a Priority
a.	Incentives that encourage home builders to include built in smart technology, like home security systems, keyless entry locks, monitoring devices, and automated lighting to help older adults age in their own home	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Affordable high speed home Internet access	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Free access to computers and the Internet in public places like libraries	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q14. Of the 3 **technology** initiatives you just rated, which one will have the MOST impact on making your city a livable community? [**CHECK ONLY ONE ITEM.**]

<input type="checkbox"/>	Incentives that encourage home builders to include built in smart technology, like home security systems, keyless entry locks, monitoring devices, and automated lighting to help older adults age in their own home
<input type="checkbox"/>	Affordable high speed home Internet access
<input type="checkbox"/>	Free access to computers and the Internet in public places like libraries

Q15. The next few questions focus on **transportation and infrastructure**. Please rate the priority of the following transportation and infrastructure initiatives in your city. [**CHECK ONLY ONE BOX PER ITEM (A, B, C, D).**]

		Top Priority	High Priority	Medium Priority	Low Priority	Not a Priority
a.	Accessible, convenient, reliable, and affordable public transportation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Coordination of transportation services to assist people with disabilities and older adults	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Transportation affordability programs for low-income people and people with disabilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Streets that are planned, built, operated, and maintained to provide access, convenience and safety for all users	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q16. Of the 4 **transportation and infrastructure** initiatives you just rated, which one will have the MOST impact on making your city a livable community? [**CHECK ONLY ONE ITEM.**]

<input type="checkbox"/>	Accessible, convenient, reliable, and affordable public transportation
<input type="checkbox"/>	Coordination of transportation services to assist people with disabilities and older adults
<input type="checkbox"/>	Transportation affordability programs for low-income people and people with disabilities
<input type="checkbox"/>	Streets that are planned, built, operated, and maintained to provide access, convenience and safety for all users

Q17. The next few questions focus on **neighborhood safety**. Please rate the priority of the following neighborhood safety initiatives in your city. [**CHECK ONLY ONE BOX PER ITEM (A, B, C, D).**]

		Top Priority	High Priority	Medium Priority	Low Priority	Not a Priority
a.	Increased police presence and communication between police and neighborhood residents	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Neighborhood watch programs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Well-lit streets and public spaces	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	The rehabilitation of vacant lots and buildings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q18. Of the 4 **neighborhood safety** initiatives you just rated, which one will have the MOST impact on making your city a livable community? [**CHECK ONLY ONE ITEM.**]

<input type="checkbox"/>	Increased police presence and communication between police and neighborhood residents
<input type="checkbox"/>	Neighborhood watch programs
<input type="checkbox"/>	Well-lit streets and public spaces
<input type="checkbox"/>	The rehabilitation of vacant lots and buildings

Q19. The next few questions focus on **utility** initiatives. Please rate the priority of the following utility initiatives in your city. [**CHECK ONLY ONE BOX PER ITEM (A, B, C, D).**]

		Top Priority	High Priority	Medium Priority	Low Priority	Not a Priority
a.	Regulations that ensure that utility companies, including electric, gas, water, and telecommunications set fair and reasonable rates for residential customers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Low-income assistance programs, such as LIHEAP or WAP, to help make utility services more affordable to low-income residents	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	A municipal consumer advocate that effectively represents and protects the interests of residential utility customers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Energy rebate or incentive programs that encourage residents to use energy more efficiently	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q20. Of the 4 **utility** initiatives you just rated, which one will have the MOST impact on making your city a livable community? [**CHECK ONLY ONE ITEM.**]

<input type="checkbox"/>	Regulations that ensure that utility companies, including electric, gas, water, and telecommunications set fair and reasonable rates for residential customers
<input type="checkbox"/>	Low-income assistance programs, such as, LIHEAP or WAP, to help make utility services more affordable to low-income residents—like energy rebates
<input type="checkbox"/>	A municipal consumer advocate that effectively represents and protects the interests of residential utility customers
<input type="checkbox"/>	Energy rebate or incentive programs that encourage residents to use energy more efficiently

Q21. The next few questions focus on **programs and services that help low-income and older adults**. Please rate the priority of the following programs and services initiatives in your city. [**CHECK ONLY ONE BOX PER ITEM (A, B, C, D, E, F, G).**]

		Top Priority	High Priority	Medium Priority	Low Priority	Not a Priority
a.	Policies to protect against cuts to food assistance programs like SNAP and WIC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Increased support for local area food banks and other food supportive services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Establish or increase the number of farmer's markets that accept SNAP, WIC, and other food assistance program benefits	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Policies to protect against cuts to Medicaid or other state programs that support the health of low-income people	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	Policies to protect against cuts to Medicare and Social Security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	Increased support for respite care and policies that give family caregivers relief	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g.	Affordable legal aid for low-income and older adult victims of consumer fraud and other types of financial exploitation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q22. Of the 7 **programs and services** initiatives you just rated, which one will have the MOST impact on making your city a livable community? [**CHECK ONLY ONE ITEM.**]

<input type="checkbox"/>	Policies to protect against cuts to food assistance programs like SNAP and WIC
<input type="checkbox"/>	Increased support for local area food banks and other food supportive services
<input type="checkbox"/>	Establish or increase the number of farmer's markets that accept SNAP, WIC, and other food assistance program benefits
<input type="checkbox"/>	Policies to protect against cuts to Medicaid or other state programs that support the health of low-income people
<input type="checkbox"/>	Policies to protect against cuts to Medicare and Social Security
<input type="checkbox"/>	Increased support for respite care and policies that give family caregivers relief
<input type="checkbox"/>	Affordable legal aid for low-income and older adult victims of consumer fraud and other types of financial exploitation

Q23. Of the 9 initiatives you chose as having the MOST impact on making your city a livable community, please rank your **TOP 3 priorities** across all 9 areas, with 1 being your top priority, 2 being your second highest priority, and 3 being your third highest priority. [**PUT THE NUMBER 1 BY YOUR TOP PRIORITY, THE NUMBER 2 BY YOUR SECOND HIGHEST PRIORITY, AND THE NUMBER 3 BY YOUR THIRD HIGHEST PRIORITY.**]

_____	Issue1 [RESPONDENT'S CHOICE]
_____	Issue2 [RESPONDENT'S CHOICE]
_____	Issue3 [RESPONDENT'S CHOICE]
_____	Issue4 [RESPONDENT'S CHOICE]
_____	Issue5 [RESPONDENT'S CHOICE]
_____	Issue6 [RESPONDENT'S CHOICE]
_____	Issue7 [RESPONDENT'S CHOICE]
_____	Issue8 [RESPONDENT'S CHOICE]
_____	Issue9 [RESPONDENT'S CHOICE]

Q24. Are there any other initiatives that you will focus on that relate to making your city a livable community that we have not already asked about in the survey?

Please list any other initiatives.

Q25. How useful would the following age-related resources be to your city? [**CHECK ONLY ONE BOX PER ITEM (A, B, C, D, E, F, G, H, I).**]

		Extremely Useful	Very Useful	Somewhat Useful	Not Very Useful	Not At All Useful
a.	Training Programs: Virtual or in-person trainings on principles and case studies that support livable communities for all ages.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	Best Practice Sharing Programs and Resources: Formal and informal best practice sharing; problem-solving assistance from other cities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	Funding Opportunities: Opportunities to apply for small grants to assist with work.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Livable Community Resources: “How to” guides to assist in making your city more livable for people of all ages	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	Media and Visibility for Livable Community Initiatives: Recognition and media outreach programs to promote your city’s work.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	Constituent Outreach: On the ground work with partners to engage older Americans in community efforts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g.	Other Resource: Please specify: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h.	Other Resource: Please specify: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i.	Other Resource: Please specify: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Demographic Information

D1. Please provide the name of your city.

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D2. Please provide the name of your state.

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D3. Please provide the name of your Mayor.

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D4. What is your city's population?

	30,000 to less than 50,000 residents
	50,000 to less than 100,000 residents
	100,000 to less than 150,000 residents
	150,000 to less than 200,000 residents
	200,000 to less than 250,000 residents
	250,000 to less than 300,000 residents
	300,000 to less than 350,000 residents
	350,000 to less than 400,000 residents
	400,00 to less than 450,000 residents
	450,000 to less than 500,000 residents
	More than 500,000 residents

D5. What is the average age of your city's population?

	Average age in years
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D6. Please provide your name.

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D7. Please provide your job title and email address.

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From: [Cownie, Frank](#)
To: [Goldbeck, Pa V.](#)
Subject: Fwd: Mayors' Monarch Pledge Webinar Today - Still Time to Register
Date: Thursday, September 29, 2016 7:45:11 AM
Attachments: [image001.png](#)
[image001.png](#)

We should save this info. Thx

Sent from my iPhone

Begin forwarded message:

From: Mayors' Monarch Pledge <mayorsmonarchpledge@nwf.org>
Date: September 28, 2016 at 8:54:08 AM CDT
To: Mayors' Monarch Pledge <mayorsmonarchpledge@nwf.org>
Subject: Mayors' Monarch Pledge Webinar Today - Still Time to Register

Dear Mayors' Monarch Pledge Staff Contacts,

We still have a few slots left for our Mayors' Monarch Pledge webinar today. Please see details below and register if you plan to attend.

All my best,
Patrick



Patrick Fitzgerald
Senior Director of Community Wildlife
National Wildlife Federation
(202) 797-6821
www.nwf.org / www.nwf.org/community
Uniting all Americans to ensure wildlife thrive in a rapidly changing world

From: Patrick Fitzgerald
Sent: Friday, September 23, 2016 9:38 AM
To: Patrick Fitzgerald <fitzgeraldp@nwf.org>
Cc: Mayors' Monarch Pledge <mayorsmonarchpledge@nwf.org>
Subject: WEBINAR - 9/28 - Mayors' Monarch Pledge

Dear Colleagues,

I'm writing to invite you to attend our Mayors' Monarch **Pledge webinar on Wednesday, 9/28 at 1:30 PM Eastern**. We will share information about the work that 190 municipalities have done over the past year and highlight best practices on action items that range from changing mowing practices to creating a demonstration garden

at city hall to issuing a proclamation. [Follow this link to register!](#) We hope you will also consider spreading the word to anyone in your community that might be interested in learning more about this campaign.

Pledge Background:

Last fall, the National Wildlife Federation (NWF) launched the Mayors' Monarch Pledge – an effort to get mayors AND other local government chief executives to commit to help save the monarch butterfly – a beloved species that has declined by about 90% over the last 20 years. The Mayors' Monarch Pledge provides a framework for cities, towns, counties and other municipalities to take action by creating habitat for the monarch and educating citizens about the ways they too can help. In the last year we've had more than 190 mayors take the pledge and we're still looking for municipalities and communities of all sizes to join the effort. You can learn about the pledge here: www.nwf.org/mayorsmonarchpledge. Mayors who take the pledge commit to at least [3 of 25 action items from this list](#).

Webinar Background ([Follow this link to register](#)):

Patrick Fitzgerald, Senior Director of Community Wildlife at the National Wildlife Federation (NWF), will present best practices and lessons learned during the first year of the Mayors' Monarch Pledge which was launched in September 2015 with Mayor Francis Slay of St. Louis, MO. Some of these best practices include the creation of demonstration gardens, hosting new monarch butterfly festivals, changing mowing practices, partnering with schools and more. Patrick will also share details on how to sign up and take the Mayors' Monarch Pledge (www.nwf.org/MayorsMonarchPledge). Grace Barnett, Monarch Outreach Specialist in NWF's South Central Regional Center, will present on how NWF has partnered with municipalities in TX, OK and AR to launch an effort to establish a local urban monarch network and work towards a city-wide monarch conservation plan. The Monarch Network in Oklahoma City will present about their efforts to create a city-wide monarch conservation plan and implement some new initiatives. Katie Boyer, Monarch Outreach Specialist for Texas and Oklahoma for the U.S. Fish and Wildlife Service, will present about a current collaboration with partners in four pilot metropolitan areas to develop an Urban Monarch Landscape Conservation Design (LCD). An LCD is both a process and a product, which will assist in monarch conservation planning in these urban areas. The pilot projects are currently underway in Austin, TX; Chicago, IL; Kansas City, MO/KS; and Minneapolis/St. Paul, MN, and the results of this pilot project will be of interest to many cities interested in monarch butterfly conservation.

Help Us Spread the Word – Sample Tweets:

Register for @NWF's Mayors' Monarch Pledge webinar on 9/28

<https://web.telspan.com/register/nwf1/mayorsmonarchpledgebestpracticesandresources>
#monarchs

Take the @NWF's Mayors' Monarch Pledge to help #savethemonarch

www.nwf.org/mayorsmonarchpledge

Thanks for reading and we hope you will join us on Wednesday!

Best,

Patrick



Patrick Fitzgerald
Senior Director of Community Wildlife

National Wildlife Federation

(202) 797-6821

www.nwf.org / www.nwf.org/community

Uniting all Americans to ensure wildlife thrive in a rapidly changing world





From: Hong Wang
To: [Gray, William S.](#); [Hensley, Christine L.](#); [Coleman, Chris](#); [Westergaard, Linda C.](#); [Cownie, Frank](#); [ColemanSeven@mchsi.com](#); [Coleman, Chris](#); [Rauh, Diane L.](#); [Moore, Skip](#); [Gatto, Joe P.](#)
Cc: [Donald J. Trump for President, Inc.](#); [Donald J. Trump](#); [info@speakeerryan.com](#)
Subject: Fwd: National Security : The story behind Trump Tower and his daughter best friend Wendi Deng Chinese Spy
Date: Friday, August 05, 2016 8:26:16 AM

Dear Mayor and Council members

Good morning, this is an email that I sent to Koch Brother, and I would like to forward to you too to let you know what is behind Trump NJ Tower.

Thanks

Hong

----- Forwarded message -----

From: **Hong Wang** <hong.wang1@oh-oca.org>
Date: Fri, Jul 29, 2016 at 9:09 PM
Subject: Fwd: to Leon Panetta : National Security : The story behind Trump Tower and his daughter best friend Wendi Deng Chinese Spy
To: info@kochind.com, kenneth.spain@kochps.com, keturah.austin@kochps.com, rob.carlton@kochps.com, jake.reint@kochps.com, deanna.altenhoff@kochps.com
Cc: "Donald J. Trump" <Donald.J.Trump@donaldjtrump.com>

Dear Koch Industries

Good night, I am writing to you to about the story behind Trump Tower, report the dishonestly of Trump over national security vs his own family profits. Hope you could help write it out and publish it or let more people know.

On Mon, Jun 20, 2016 at 5:55 AM , I wrote an email to Trump titled "Please help investigate : Your daughter Ivanka Trump's best friend, Wendi Deng, ex-wife of Rupert Murdoch , is a Chinese Top level spy (The general political department), " to ask him to investigate Wendi Deng, based on report she was a top Chinese Spy (email will forward to you separately).

He did not reply, instead, one big thing happened on 6/20 morning, his campaign manger got fired 8:30 am, media reported that Ivanka Trump played role in campaign manager's firing. Lewandowski had sought to plant negative stories about her husband, Jared Kushner.

On Jun 23, I wrote him another email titled "Re: Lying Crooked Hillary ", describe possible lie of Hillary Clinton on Wang lijun visited Cheng Du USA consulate issue related to Genocide and Forced Organ harvesting in China. This time trump politely responded (email will forward to you separately).

I was wondering why Lewandowski had sought to plant negative stories about her husband, Jared Kushner. Why Trump did not response on investigate Wendi Deng, a top level Chinese

Spy. This is a serious issue.

So I went on to do more research, and here is what I found out this report :

Trump Tower Funded by Rich Chinese Who Invest Cash for Visas

<http://www.bloomberg.com/politics/articles/2016-03-07/trump-tower-financed-by-rich-chinese-who-invest-cash-for-visas>

Trump Bay Street is a 50-story luxury rental apartment building being built by Kushner Companies, whose chief executive officer, Jared Kushner, is married to Trump's daughter Ivanka. The firm that was hired to seek investors, US Immigration Fund, is run by Florida developer Nicholas Mastroianni, who announced a partnership last year with a Trump golf course in Jupiter, Florida.

The visa program is known as EB-5. In exchange for investing at least \$500,000 in a project promising to create jobs, foreigners receive a two-year visa with a good chance of obtaining permanent residency for them and their families.

I went on to do more research, and find out that US Immigration Fund (Chinese name 美国移民基金) has a Chinese partner in China called qiaowai (侨外) to do advertising for Trump's program and other programs in China. qiaowai (侨外) is almost rank No 1 in EB-5 projects in China. In the QiaoWai website, it stated Kushner 88 Trump Bay Street project, started 2013, is the only one that I-526 (for EB-5 visa) got urgent approved due to Hurricane Sandy in 2012. And it also stated that it has good relationship with Democracy party supporting from Obama, Debbie Wasserman -Schultz and Ron Klein . This is Kushner 88 Trump Bay Street project QiaoWai website link <http://www.qiaowai.net/zhuanli/xzx/> . You could also see QiaoWai CEO dingyingvian picture with president Obama .Chinese reports said it is rudy giuliani made QiaoWai succeed in USA <http://www.qiaowai.net/mtbd/16820.html>

Throughout his presidential campaign, Donald Trump has attacked China and warned about the dangers of deficient immigrant screening. However, Trump Never mentioned EB-5 in any of his proposal, which is very controversial especially in terms of security, and will be end in September 30 this year. EB5 I-526 could be approved within several days up to 6 months, there is no way to do background checks in such small time frame, which is why EB-5 is controversial and is a national security issue. I was so surprised to find out that Trump did not push investigation on Wendi Deng, who is best friend of his daughter Ivanka Trump for such a big national security issue. Instead, he fired his campaign manger . I am very worried about those immigrants in Trump Tower. I strongly request background check for all of them.

Thus I am really question on Trump's eligibility as presidential candidate. He put his family profit and interest in front of national security. I am afraid he would even sell USA freedom for his own profit.

In addition, as in "Trump Tower Funded by Rich Chinese Who Invest Cash for Visas report", Kushner Companies is a New Jersey-based real estate firm built by Kushner's father Charles, a former rainmaker in New Jersey Democratic politics who pleaded guilty to a federal campaign finance violation, filing false tax returns as well as attempts to silence a witness. Charles was sentenced in 2005 to a prison term of two years. He remains active in the company. Jersey City is the first and, so far, only Trump project for the company .

Thank you so much for your attention to this matter.

Sincerely

Hong

P.S.

QiaoWai CEO with Obama

<https://www.dropbox.com/s/86zrrnzz2wx0h35/qiaowaiCEO.jpg?dl=0>

(those are copies from Trump Building Ads in QiaoWai <http://www.qiaowai.net/zhuanti/xzx/>)

QiaoWai ads for Trump Tower shows support from Debbie Wasserman -Schultz and Ron Klein .

https://www.dropbox.com/s/64fqtsoqlqkm3ix/QiaoWai_TrumpAdsPag1.png?dl=0

QiaoWai ads for Trump Tower shows I-526 (for EB-5 visa) got urgent approved due to Hurricane Sandy in 2012

https://www.dropbox.com/s/lwq9hgw9nesinw3/QiaoWaiTrumpbuildingAds_I526_Sandy_urgentApproval.png?dl=0

From: CA Walters
To: [Cownie, Frank](#); [Gray, William S.](#); [BobM@FNGI.net](#); [Hensley, Christine L.](#); [Gatto, Joe P.](#); [Coleman, Chris](#); [Moore, Skip](#); [mayorgluba@ci.davenport.ia.us](#); [jgordon@ci.davenport.ia.us](#); [gmeeker@ci.davenport.ia.us](#); [rdunn@ci.davenport.ia.us](#); [bedmond@ci.davenport.ia.us](#); [rambrose@ci.davenport.ia.us](#); [bbarnhill@ci.davenport.ia.us](#); [jjustin@ci.davenport.ia.us](#); [mmatson@ci.davenport.ia.us](#); [ktompkins@ci.davenport.ia.us](#); [Pete.Festersen@cityofomaha.org](#); [Ben.Gray@cityofomaha.org](#); [Chris.Jerram@cityofomaha.org](#); [Garry.Gernandt@cityofomaha.org](#); [ron.corbett@cedar-rapids.org](#); [ann.poe@cedar-rapids.org](#); [s.weinacht@cedar-rapids.org](#); [R.Russell@cedar-rapids.org](#); [commission@cityoffargo.com](#); [tmahoney@cityoffargo.com](#); [vriley@cheyennecity.org](#); [sroybal@cheyennecity.org](#); [jvaldez@cheyennecity.org](#); [bcook@cheyennecity.org](#); [mrinne@cheyennecity.org](#); [dshanor@cheyennecity.org](#); [kandersonjr@siouxfalls.org](#); [rolfing@siouxfalls.org](#); [cerickson@siouxfalls.org](#); [merpenbach@siouxfalls.org](#); [giamison@siouxfalls.org](#); [dkarsky@siouxfalls.org](#); [rkiley@siouxfalls.org](#); [kstaggars@siouxfalls.org](#); [MayorsOffice@rcgov.org](#); [Ron.Weifenbach@rcgov.org](#); [charity.doyle@rcgov.org](#); [steve.laurenti@rcgov.org](#); [ritchie.nordstrom@rcgov.org](#); [chad.lewis@rcgov.org](#); [jerry.wright@rcgov.org](#); [amanda.scott@rcgov.org](#); [john.roberts@rcgov.org](#); [council@townofjackson.com](#); [sflitner@townofjackson.com](#); [hmortonlevinson@townofjackson.com](#); [dfrank@ci.jackson.wy.us](#); [cpowell@cityofcasperwy.com](#); [lsandoval@cityofcasperwy.com](#); [chedquist@cityofcasperwy.com](#); [scathey@cityofcasperwy.com](#); [mayor@cityofboise.org](#); [lmclean@cityofboise.org](#); [Bquintana@cityofboise.org](#); [sludwig@cityofboise.org](#); [tjthomson@cityofboise.org](#); [Elaine.Clegg](#); [mjordan@cityofboise.org](#); [bocc1@adaweb.net](#); [council.comments@slcgov.com](#); [james.rogers@slcgov.com](#); [kyle.lamalfa@slcgov.com](#); [stan.penfold@slcgov.com](#); [luke.garrott@slcgov.com](#); [erin.mendenhall@slcgov.com](#); [charlie.luke@slcgov.com](#); [lisa.adams@slcgov.com](#); [terry.fritz@slcgov.com](#); [tim.doubt@slcgov.com](#); [councilmember.cedillo@lacity.org](#); [Arturo.Chavez@lacity.org](#); [Jennifer.Rivera@lacity.org](#); [councilmember.Krekorian@lacity.org](#); [areen.ibranossian@lacity.org](#); [ian.thompson@lacity.org](#); [matt.hale@lacity.org](#); [councilmember.blumenfeld@lacity.org](#); [david.ryu@lacity.org](#); [paul.koretz@lacity.org](#); [david.hersch@lacity.org](#); [joan.pellico@lacity.org](#); [councilmember.martinez@lacity.org](#); [councilmember.fuentes@lacity.org](#); [rebecca.valdez@lacity.org](#); [cheryl.getuiza@lacity.org](#); [councilmember.harris-dawson@lacity.org](#); [councilmember.price@lacity.org](#); [curtis.earnest@lacity.org](#); [paloma.perez@lacity.org](#); [councilmember.wesson@lacity.org](#); [councilmember.bonin@lacity.org](#); [councilmember.english@lacity.org](#); [John.S.Lee@lacity.org](#); [Nicole.Bernson@lacity.org](#); [Doug.Tripp@lacity.org](#); [Stephanie.Saporito@lacity.org](#); [councilmember.ofarrell@lacity.org](#); [marisol.rodriguez@lacity.org](#); [david.giron@lacity.org](#); [councilmember.hulzar@lacity.org](#); [Paul.Habib@lacity.org](#); [Rick.Coca@lacity.org](#); [Martin.Schlageter@lacity.org](#); [councilmember.buscaino@lacity.org](#)
Subject: Fwd: Press Release: Virginia Declares Patient Cash Cow/Cites Million in Profit from Medicaid fraud
Date: Friday, August 14, 2015 2:51:15 PM
Attachments: [1.medicaidcow.png](#)
[4.Retaliation Cut SSL.png](#)

----- Forwarded message -----

From: City Desk <citydesk@inbox.com>

Date: Fri, Aug 14, 2015 at 1:41 PM

Subject: Press Release: Virginia Declares Patient Cash Cow/Cites Million in Profit from Medicaid fraud

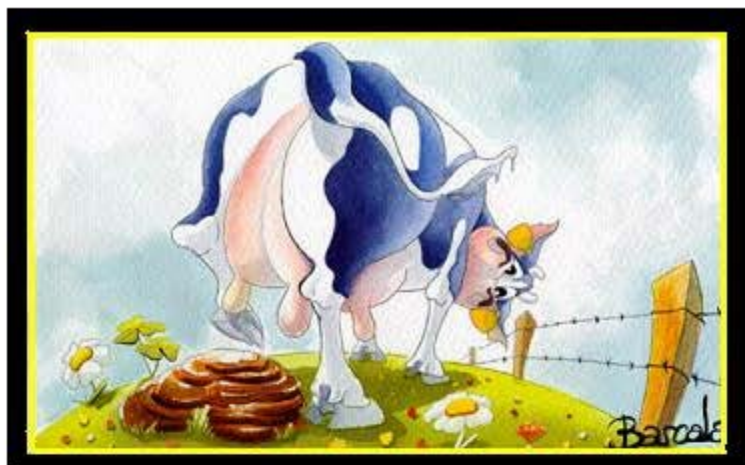
To: cawalters2015@gmail.com, debbie.lee@usdoj.gov, usaaz.community@usdoj.gov, cosme.lopez@usdoj.gov

Attachments are image files

Receive Notifications of Incoming Messages

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Debbie Miller
Medical Assistance Program Consultant Senior
Virginia Department of Social Services
801 East Main Street,
Richmond VA 23219-2901
(804) 726-7013

**VIRGINIA DECLARES DISABLED PERSON CASH COW WE FINALLY GOT HIM KICKED OUT
OF SKILLED NURSING HOME AND BACK IN CIRCULATION**
Online <http://afterdarkportal.freehostia.com/ssi/access>

In May 2015 some fool doctor at Moses Cone Hospital, NC took 1 look at Mr. Walters medical records and sent him straight to a skilled nursing facility in Burlington, NC. As great fortune would have we had him transferred back to Charlottesville, VA; shit canned his medicaid; required him to leave the nursing facility and we can return to turning a profit. **If you examine Mr. Walters medical records you can see that since 1997 he has been seen at over 135 clinics and hospitals; hospitalized about 20 times for DVT; 5 or 6 times for cellulitis with an average costs of \$30,000.** As a proverbial medicaid cow Mr. Walters has generated over a million dollars in profit for the medical industry.

\$1 MILLION PROFIT FROM MEDICAID FRAUDS
Online <http://afterdarkportal.freehostia.com/ssi/index.html>

Mr. Walters ridiculous question to congress asks why it took 10 doctors 5 years to do simply surgery in doctors office; why it took 45 doctors 13 years to do colon exam; why it took 160 doctors treating DVT to prescribe Xarelto pill; or why 120 doctors could not resolve chronic infections. Obviously medicaid fraud involves big bucks and we don't treat medical problems we go through the motion to make referrals to other doctors and providers who need to make a profit. The nursing home Director recently acknowledged Mr. Walters has filed a question with Virginia Medicaid Fraud, and Office of Inspector General. Cheryl Martin ask Mr. Walters; **why would they prosecute us we are in business together?**

POINTERS ON INCREASING THIS YEARS PROFITS FROM 250,000

Despite a loss of profits for month and half Mr. Walters in being treated for his chronic health conditions we have still need to increase review some easy tips to increase profits from \$250,000. Mr. Walters is in your ER today and probably has 15 pounds of extra water causing CHF which could easily be resolved with 2 water pills. Most of our provider use an lasix IV to increase costs; we have what 15 ER's doing Xrays for non existant PE's; most are doing Dopler Ultrasound while it is obvious from clinical exam no clot is present; and a variety of other unneeded treatments as circumstances permit. It is ok to give Mr. Walters 1 Xarelto pill and a prescription which we just shit canned at Walgreens.

As a medical professional you already know your ass is grass and our Dept is the law mower if anyone actually does hip or knee surgery; a sleep study or CPAP machine; echocardiogram for CHF; gall bladder surgery or anything else which would damage our cash cow and actually treat the medical problems.

Please feel free to fax a copy of this FYI to House Oversight Fax: (202) 225-3974
Chairman Ron Johnson Senate Government oversight Committee Fax: (202) 228-6965 |



Debbie Miller
Medical Assistance Program Consultant Senior
Virginia Department of Social Services
801 East Main Street,
Richmond VA 23219-2901
(804) 726-7013

YOU SNITCHED US OUT WE CUT YOUR BENEFITS

Medicaid VA Medicaid x

Miller, Debra (VDSS) <debbie.miller@dss.virginia.gov>

Jul 28 (2 days ago) ☆

to me ▾

Dear Mr. Walters,

Our records indicate you are living in Lynchburg, VA. You mentioned in your e-mail that you are trying to have prescriptions filled in Petersburg, VA. If you are no longer in Lynchburg please let the department of social services in Lynchburg know you have moved so that they can transfer your case to Petersburg. Your case is due for review in August and they will need to hear from you. It is very important for you to contact them as your SSI looks like it will stop in September. Your coverage now is based on the fact you have been receiving SSI.

It appears you have had full Medicaid since September 2014, which would have covered all of your prescriptions. Your claim number is 680 081311014. In October you will be covered under Medicare A,B and D (which is the drug coverage and would be used to fill prescriptions).

Debbie Miller
Medical Assistance Program Consultant Senior
Virginia Department of Social Services
801 East Main Street, Richmond VA 23219-2901
(804) 726-7013 www.dss.virginia.gov



From: 이춘한
To: [Cownie, Frank](#)
Cc: [Delafield, Phil M.](#)
Subject: Fwd: 협조 의뢰사항
Date: Saturday, August 29, 2015 8:18:08 PM
Attachments: [옥수수 펄프, IOWA 경제개발청 지원제안서.tif](#)
[옥수수 펄프, MOU, NewPage.pdf](#)
[Iowa Economic Development Authority 협조 서신, Our Business Plan..docx](#)
[LOI, IEDA Iowa .pdf](#)

Please help us.

Reason : We have sent the mail to the Government and relevant institutions. However, There is no reply.

Our business : see 5 attachments

Balance proof : 60.000.000 US dollars

Contact : Lee (430119@gmail.com) & Mr. Don Shin (213-505-3488, California)

Attachment Unnamed... .., IOWA20150829 201808.tif (513453 Bytes) cannot be converted to PDF format.

Memorandum of Understanding and Confidentiality Agreement Between CPNP Holdings and NewPage Corporation

CPNP Holdings ("CPNP") and NewPage Corporation ("NP"), jointly referred to as "Parties" and individually referred to as "Party", enter this Memorandum of Understanding and Confidentiality Agreement ("MOU/CA"), with the understanding that the Parties are aware of the responsibilities according to the business cooperation and confidentiality of information, and the Parties believe that they could contribute to the promotion of mutual interest through cooperation.

1 Purpose

The purpose of this MOU/CA is to conduct pulp and paper research on potentially using cornstalk as a raw material. CPNP has experience in making pulp and paper from cornstalk rind. CPNP will endeavor to supply the rind of cornstalk to NP. NP may produce the pulp and paper by laboratory and plant facilities, and share all results jointly developed by the Parties and obtained through lab and mill-scale trial with CPNP Holdings. The Parties desire to maintain the confidentiality of this MOU/CA and Confidential Information that will be shared between the Parties. The Parties will jointly own and may share any methodology for making pulp or paper from cornstalk rind that is jointly developed by the Parties under this Agreement.

2 Details of cooperation are as follows.

1. CPNP will provide cornstalk rind and representative with expertise to demonstrate CPNP's methodology for making pulp and paper from cornstalk rind.
2. NP will test production of pulp and paper from rind of cornstalk.
3. Development of technology for the corn stalk pulp production
4. The potential for technology to make paper from cornstalk pulp
5. The Parties will share, between the Parties only, the results obtained from lab scale and mill scale production

Kmm

6. Study of feasibility for commercial production of paper from cornstalk pulp.
7. The Parties shall maintain the confidentiality of Confidential Information.

3 Role of each Party

1. CPNP will supply to NP the separated cornstalk rind and supply a representative with knowledge to provide to NP information helpful to produce pulp and paper from the rind of cornstalk.
2. The Parties may potentially enter into another agreement(s) to carry-out another related subject.
3. The Parties will appoint the staff who will take charge of this project in order to perform effective cooperation.
4. The Parties may potentially pursue further business cooperation that may explore a potential joint venture for commercial production of cornstalk pulp and cornstalk paper through entering another agreement, if this test production is evaluated as successful by both Parties.

4 Confidentiality Agreement

a. **Background.** The Parties wish to disclose to the other Party certain confidential and non-public information to enable the Parties to more fully assess a possible commercial transaction(s) between the Parties. All disclosures of Confidential Information under this Agreement are voluntary, and nothing in this Agreement is intended to require either Party to disclose any Confidential Information to the other Party. The delivery of Confidential Information under this Agreement does not imply any obligation to enter into a business transaction. The Parties also agree not to disclose such Confidential Information to any party except as permitted in this Agreement.

b. **Definitions.**

b.1. **"Confidential Information"** means written, oral, electronic, visual and other materials, documents, data and information relating to the Discloser or its affiliates that is obtained by the Recipient or its Representatives from the Discloser or its Representatives or by visiting the Discloser's facilities, excluding any of the foregoing that the Recipient can demonstrate (1) has

kum

entered the public domain through no action of the Recipient in violation of this Agreement, (2) was in the Recipient's possession before being disclosed to the Recipient pursuant to this Agreement and that was not acquired by the Recipient directly or indirectly from the Discloser on a confidential basis or from a party known to be in breach of an obligation of secrecy to the Discloser, (3) was independently developed by the Recipient, or (4) was disclosed by the Discloser to others on an unrestricted, non-confidential basis. Confidential Information also includes notes, documents, and materials prepared by or for the Recipient that reflect, interpret, evaluate, include, or are derived from Confidential Information.

b.2 "Discloser" means the Party and its subsidiaries and affiliates that disclose Confidential Information.

b.3 "Recipient" means the Party and its subsidiaries and affiliates that receive Confidential Information.

b.4 "Representatives" means the respective directors, officers, partners, and employees of each Party.

c. Use of Confidential Information.

c.1. The Recipient will use Confidential Information solely in furtherance of the Purpose of this Agreement and assessing the viability of making cornstalk pulp and cornstalk pulp-based paper and a potential commercial transaction(s) between the Parties. The Recipient will keep Confidential Information strictly confidential and, except as authorized in this Agreement, will not disclose or distribute Confidential Information to any person or entity without the Discloser's prior written consent. The Recipient may disclose Confidential Information to those of the Recipient's Representatives who need to have the Confidential Information to assess the viability of making cornstalk pulp and cornstalk pulp-based paper and a potential commercial relationship between the Parties, so long as those Representatives are informed by the Recipient of the confidential nature of the information, and then only to the extent necessary to their participation or contribution. The Recipient will be responsible for any breach of this Agreement by its

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Representatives. If the Recipient needs to disclose Confidential Information to persons other than its Representatives in order to participate in a commercial relationship with Discloser, the Recipient will so advise the Discloser and abide by its instructions concerning disclosure of that Confidential Information.

c.2 If the Recipient is required by law to disclose any Confidential Information not otherwise permitted to be disclosed in this Agreement, the Recipient will immediately notify the Discloser (so long as it is legally permitted to do so) and assist the Discloser, at the Discloser's expense, in obtaining a protective order or other appropriate remedy. In any event, the Recipient will disclose only that portion of the Confidential Information that is legally required and will use commercially reasonable efforts to assure that confidential treatment is accorded any Confidential Information disclosed.

d. Return of Confidential Information. Except as authorized in this Agreement, upon request by the Discloser at any time, the Recipient will promptly either return or certify in writing to the Discloser that the Recipient has destroyed the original and all copies of tangible Confidential Information except one copy for its business records. Non-destruction of electronic copies of materials or summaries containing or reflecting Confidential Information that are automatically generated through data backup and/or archiving systems and summary information the review of which was deemed necessary for approval of the potential transaction shall not be deemed to violate this Agreement, so long as the Confidential Information contained therein is not disclosed or used in violation of the other terms of this Agreement.

5. No Rights Granted. All Confidential Information of the Discloser will remain the property of the Discloser and no license or other rights to that Confidential Information is granted to the Recipient under this Agreement.

6. No Warranties. All Confidential Information is provided "AS IS" and without any warranty, express, implied, or otherwise, including but not limited to warranties regarding accuracy, completeness, merchantability, or fitness for a particular purpose.

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7. **No Publicity.** Confidential Information includes this Agreement, the fact that the parties are exploring a supplier/customer relationship, and any negotiations or discussions regarding such a relationship. Subject to applicable legal disclosure requirements (which will be handled in accordance with Section ^{4.C. 9A} ~~3.2~~), no publicity may be released by either party in connection with this Agreement without the prior written approval of the other party, which approval may be given or withheld in that party's sole discretion.
8. **No Assignment.** Neither party may assign or transfer any rights or obligations under this Agreement without the prior written consent of the other, which consent may be granted or withheld by the other party in its sole and absolute discretion.
9. **No Amendment.** No amendment, supplement, or other modification to this Agreement, and no consent to, or waiver, discharge, or release of, any term or provision or breach of this Agreement, will be valid or effective unless the amendment, supplement, or other modification or the consent, waiver, discharge, or release is in writing, expressly refers to this Agreement, and is signed by the party to be bound.
10. **Remedies.** NewPage and Company acknowledge that money damages resulting from a breach of this Agreement may be inadequate and impossible to measure accurately. Accordingly, a Party will be entitled to seek an injunction and other equitable relief for any breach of this Agreement, and the breaching party may not assert as a defense in any such action that an adequate remedy at law exists. NewPage and Company may recover all costs and expenses, including reasonable legal fees, incurred by it in enforcing this Agreement.
11. **Severability.** If any term or provision of this Agreement is determined by any court of competent jurisdiction to be invalid, illegal, or unenforceable in whole or in part by reason of any

Kuhm

applicable law or public policy, that term or other provision will remain in full force and effect to the fullest extent permitted by law, and all other terms and provisions will remain in full force and effect in their entirety.

12. **Miscellaneous.** This Agreement is binding on and for the benefit of the Parties and their respective successors and assigns. This Agreement supersedes all prior agreements or understandings related to its subject matter and may be amended only in writing signed by the Parties. This Agreement is made in Ohio and will be governed by Ohio law.

This Agreement and performance under it shall be governed by and construed in accordance with the laws of the State of Ohio without regard to choice of law principles. Venue and jurisdiction for any action or claim arising out of or relating to this Agreement shall be in the state and federal courts located in Dayton, Montgomery County, Ohio. The Parties consent to service, the venue and jurisdiction of such courts and waive any objections to such service, venue and jurisdiction. Each party has caused this Agreement to be executed and delivered by its authorized representative as of the latest date shown below.

13. **Liaison and coordination**

1. Each Party shall identify its Liaison and data should be exchanged by letter, fax and/or electronic-mail.
2. The Parties may conduct meetings whenever important issues develop.
3. Each Party appoints the following coordinators who will in charge of liaison duty:

CPNP : Development & Planning Dept. Mr. James Hyun-soo Park.

NP : Dean Benjamin

14. **Term and Effective date of this Agreement**

This Agreement shall become effective on the date last signed by the Parties. The term of this Agreement is three (3)-years from the effective date, and may be annually extended for one (1)-year upon written agreement of the Parties. The Confidentiality and Remedies provisions of sections 4. And 10., respectively, of this Agreement shall survive

Kahn

for five (5) years after expiration or early termination of this Agreement.

15. Amendment and Expiration

1. CPNP and NP can amend this MOU/CA only by written and signed agreement.

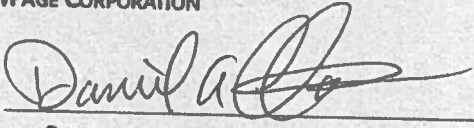
16. Counterparts. This Agreement may be executed in several counterparts, all of which taken together will constitute one single agreement between the Parties.

Each party has caused this Agreement to be executed in duplicate by its authorized representative as of the latest date shown below.

CPNP HOLDINGS

By: _____
Name: Kim Yoon Kim
Title: _____
Date: _____, 2012

NEWPAGE CORPORATION

By: 
Name: Daniel A Clark
Title: SVP & CAO
Date: 9/21, 2012

President / Barack Obama's Clean Energy Policy

The revised plan will aim to cut **carbon emissions** from the power sector by 32% by 2030, compared with 2005 levels.

Clean Energy & Alfalfa Hay/Pellet & Corn Stalks Pulp & Ostrich Farm Business

Clean Energy (Hydroelectric of water flow equation & Vertical wind power) to install and 30% carbon reduction of Iowa State & Corn Belt Area, we can do resolved to foreign investment (EB-5 Immigrant Investor Program).

Resolution: Explanation

Main products

1. Vertical wind power with solar
2. Hydroelectric of water flow equation
3. **Corn stalks pulp : Not the wood pulp.**

Simple specification

Oregon State may be use a small hydropower projects with Vertical wind power(nature does not hurt).

Small hydropower projects : Installing a 20 meter interval on both sides of the river.

Vertical wind power: installed in all 20 m intervals everywhere

Hydropower capacity: 200 - 1.000 kw / each

Wind power capacity: 10 - 500 kw / each

Note : If knowing Oregon State's river length, you will know the power capacity approx.

●Water power expected

River Length (meter) ÷ 20 m (intervals) x 2 (Both sides of River) x (200 – 1.000) kw /Each plant output = _____ KW.

Calculation : (100 km x 1000) ÷ 20m x 200kw=1.000.000 kw

Power generation/year = 1.000.000 x 24 Hr. x 365=8.760 Mkw =**8.760.000 MWH/year**

●Vertical Power : no limit

To : Iowa State Economic Development Agency

We try to business in the following products in **Iowa State & Corn Belt Area**

1. Small clean electric development projects

Type	Vertical wind power and Hydroelectric of water flow equation - Power plant. (200-1.000) kw/each- power plant possible)	
Installation Site	Both side of River: Wind power plants install with hydroelectric power plants (same places)	
Location	Water Valley, small canal of reservoirs dam and river.	
Quantity of Power Station	Hydro power plants	20 meter interval installation (200-1.000) kw x 2 side x River length (m) ÷ 20 m = _____ Kw ?
	Wind power plants	Everywhere installed 20 meter intervals (Between 20 meter /each)
Generating capacity (Between 20 meter)	Wind power(10-500 Kw/each)	
	Hydro power station(200-1.000 Kw/each) on both side of River	
Distribution methods	Off Grid	
Operating /Management	Our company (Kingly Continental Group, Corporation)	

Funding sources	EB-5 immigrant investor attraction.
National recruitment	Korea & China
Recruitment Company	Local Travel in Korea & China

Job creation

	Labor	Salaries/year/each	Remark
Manager	1	70.000 more	100 Wind power facilities 50 plants /person x 3 shift/day
Facilities Management	6	40.000 more	

Infrastructure Investment	
Source	EB-5 immigrant investor program applies
Target Country	Korea and China
Recruitment Ltd	Local Travel
Offer period	year-round recruiting Continue
Investor benefit	US Green Card
Green Card acquisition date	About 24 months/Continued rotation
Visa acquisition date	After EB - 5 applied six months

Information provided SCOEDD

MOU/MOA	With Kingly Continental Group, Corp (Project team) and signed & Benefits and guaranty of government(City, State & Federal) NOTE : The requirements of the EB-5 recruiting company
Regional Center permit authorization	Reginal center permit: Application Assist us.
How to sell electricity	Off Grid



Vertical Wind Turbine Type (10 – 500 KW)


Business development, three-year plan (2016-2018) in Corn Belt area, USA

Main products

	Production Quantity	Job creation	Income/year
--	---------------------	--------------	-------------

1. Clean Energy	Non Limited	200 – 300 Labors/monthly	\$80.000.000/year
2. Corn stalks pulp	30.000 MT/year(3-year plan)		
3. Alfalfa Pellet	100.000 MT/year(3-year plan)		
4. Ostrich Farm	50.000 (5-Year Plan)		

Product photos

Alfalfa cultivation (3.000 acres) & Pellet (60.000 tons)			
Corn cultivation (10.000 acres): Corn (60.000 ton)			
Pulp Diagram (10.000 ton)			
Clean electricity (200 – 1.000Kw/wheel unit)			
Ostrich Farm (50.000 Ostrich & Leather)			

Hydroponic vegetable cultivation of LED for 4 season



Household waste and industrial waste and hospital waste **Incinerators**



Family Village : Available only to farm workers
House models : Dome style
Tornado : No problem
Dome material : Reinforced concrete
(Benefit: Vegetables for salad Free)

Future employment and income (Within 2018)

Job creation 800 peoples & Income \$ 80 Millions more /year

1. Alfalfa acreage : 10.000 acres

	Cultivation workers	Pellet
Job creation (Labor)	72	107
Income(\$) Margin : Pellet \$100/MT		20.000.000

2. Corn acreage: 50.000 acres

	Cultivation workers	Corn	Pulp
Job creation (Labor)	60		425
Income(\$) Margin : Corn \$100/acre, Pulp \$400/MT		30.000.000	20.000.000

3. **Hydroelectric of water flow equation** & Solar power with vertical wind power

Estimated 10.000 KW power plant (200 KW/ Power station)		
Job creation (Labor)	10 Power stations/person	20
Income(\$) If the sale price of \$ ____ /kwh		_____ ?

4. Ostrich Farm

50.000 Ostrich/year (Meat: 50 KG/Ostrich & Leather : 15 ft ² /ostrich), Exports: South Korea & China		
Job creation	(500 Ostrich/person)	100
Income(\$) Export prices (Meat : \$ ____/kg, Leather : \$ ____/ft ²)		

5. Hydroponic vegetable cultivation of LED for 4 season

Supplies for the winter vegetables salad.	
Job creation (10 person)	Vegetable production for Local inhabitants.
Income (\$)	?

**6. General living and industrial waste & Hospital waste incinerator : Dioxin & carbon dioxide:
less than international standards**

Job creation (10 person min.)	There is a relationship between the quantity supplied trash.
--------------------------------------	--

7. Wild animal jerky : Exports to South Korea

Job creation (2 person min.)	Ostrich, turkey, Deer etc.
-------------------------------------	----------------------------

We want to top table meeting with you in your location (in Corn Belt area)

Sincerely,



Don Shin/CEO
Kingly Cont. Group, CO.
Emperor Holdings Inc.

----- end -----

KINGLY CONTINENTAL GROUP, COMPANY.

**500. S. Virgil AVE. Suite 302
Los Angeles, CA 90020.**

Phone: (213) 505-3488 Fax: (213)385-5318

Email: shinperor@yahoo.com. shinperor@naver.com

LOI(LETTER OF INTENT)

August 29, 2015

To : IEDA(Iowa Economic Development Authority)

We are Kingly Continental Group, Inc. locate in Los Angeles, CA. U.S.A. through the collaboration of , on behalf of the investor of Emperor Holdings Inc. in Korea Corporation , hereby state to offer Ready, Willing and able to investment to set up the manufacturer of pulp mill by Corn cultivation in your state. We have plan investment total \$60,000,000.00 for set up factory and will employee 150 to 200 persons for 10.000 MT/year Pulp and Alfalfa cultivation and Vertical wind power & Hydroelectric of water flow equation stations productions.

We need to know your authority help to set up factory, land lease, supporting the financial aids by state and federal considerations.

As you understanding of new project, we bring the new employee and new factory Will be contributed in your economic status for save the tree and others benefits.

Details are on the followings.

1. COMMODITY : Alfalfa Hay / Pellet, Corn Stalks Pulp & Vertical wind power & Hydroelectric of water **flow** equation stations
2. REQUIRED : Identifying optimal sites in IOWA STATE to locate the business including of tax benefits.
3. QUANTITY : Alfalfa Hay & Pellet 60.000 MT, Corn Stalks Pulp 10,000 MT/ first year.

PROCEDURE. Fix the top table meeting after MOU/MOA.

Thanks for your paying attention and reply to : Lee (430119@gmail.com)

And want to work very closely with your states.

Regards,

KINGLY CONTINENTAL GROUP, COMPANY.

500. S. Virgil AVE. Suite 302
Los Angeles, CA 90020.

Phone: (213) 505-3488 Fax: (213)385-5318

Email: shinperor@yahoo.com. shinperor@naver.com



Don Shin/CEO

Kingly Cont. Group, CO. In USA

Emperor Holdings Inc. In KOREA

From: ja
To: [Cownie, Frank](#)
Subject: Global Warming & Climate Change is a Lie, a Hoax and a Complete Fraud
Date: Monday, November 16, 2015 12:17:57 PM

We know you are an idiot Cownie, but if you think you are bringing that phony bullcrap here, think again. We'll take it and shove it right down your throat, we will not tolerate it. So you and that other idiot who calls himself Governor tell your New World Order masters that we will take this nonsense to the street - and we look forward to it. Puppets, morons, cowards.....

Global warming and climate change, as put forward by Obama and his criminal cabal is an absolute LIE, a HOAX and a FRAUD of epic proportions! Note the REAL Science data stated below.

NOTE: Hurricane Patricia becomes the strongest hurricane ever recorded; Catastrophic landfall is expected in Mexico Friday - this Hurricane has been generated via HAARP and GWEN, exactly as Katrina was in the Gulf of Mexico - in an attempt to prove Global warming & Climate change as being real. They've also use this technology to bring about a very unusual warming trend this next week across all the Midwest, temperatures in the 80's, which has NEVER happened! That's how desperate they are - desperate to enslave you.

Many 'real scientists' have come fourth these past few years and declared it the biggest fraud yet of the 21st Century. Global Warming is an instrument to scare Nations and their peoples into spending billions of dollars on climate and pollution controls that are completely unnecessary - raising taxes, controlling the vehicles we drive and the food that is grown the end result of all of this that it costs people an enormous amount of money that is going into the pockets of people like Maurice Strong (member of the Bildebergers, financier of the NWO, who is behind the phony global warning scam and the 'Go Green' farce. 'Go Green' is about bringing in more environmental controls, the take over of resources such as the world's water supply and stealing even more money in taxes and expensive so-called 'green products' as well as creating a 'One World Bank and Currency', doing away with all others. He was exposed as being behind the UN food scandal in 2005 and fled Canada to Singapore before being prosecuted. He is a strong proponent of the 'One World Government'), Obama, his controllers, the UN, CFR, the Bildebergers, you get the picture. It is also being used in the effort to bring about the One World Government and total control of people by allowing mega-corporations to take over everything. The UN reports released over the course of the past several years were 'doctored', some completely faked making Global Warming out to be much worse than it actually is. For the past 8 years the temperatures have been going DOWN, not up! This Lie is being perpetrated for several reasons;

(1) A complete take over of all energy resources by Government or as George Will has stated; "global warming is just another way for liberals/tyrants to get what liberals/tyrants want: more government power. Global warming is socialism by the

back door," Will told The Daily Caller. "I mean, the whole point of global warming is it is a rationalization for progressives to do what progressives want to do, which is concentrate more power in Washington, more and more Washington power in the executive branch, more and more executive branch power in independent czars and agencies, to micro manage the lives of the American people." The reason, he explains, that global warming is such a good tool for liberals to give the Government so much power is that "everything becomes involved in the exigencies of 'rescuing the planet'." The common excuse heard often today. By the way, the planet does NOT need rescuing. Global warming is essentially a religion. "It's a series of propositions that can be difficult to refute," Will explained. "It's very ironic that the global warming alarmists say that 'we're the real defenders of science' when there is NO science! The REAL science points to the opposite, global cooling. Will stated it's no different than the apparent threat of "global cooling" in the 1970s. "You say to them, 'What happened to global cooling?'" and they say their "models were wrong." The proposals recently unveiled by the U.S. Environmental Protection Agency represents one of the boldest steps the U.S. has taken to fight global warming, which doesn't even exist, and will cost the American citizen billions of dollars and dramatically stifle industry, as they were meant to do.

(2) The other reason for this utter lie, fraud and hoax is obvious; make energy very expensive, up to 300% more expensive and then release it to only 'the elect few'. That's not you or I. The 2003 report, "An Abrupt Climate Change Scenario and its Implications for United States National Security," is credited with kick-starting the entire movement that, to this day and perhaps with more vigor than ever, links climate change & global warming to national security. Written by Doug Randall as a worst-case scenario, he's been surprised and dismayed by it's usage. As he states today, "I was paid by environmental zealots within the government—who have no interest in reality, but only in portraying false scenarios that will lead to a desired outcome—and I gave them what they wanted. It was an exercise in political propaganda, and a quick check of my bank account, and the incredible amount of burned taxpayer money, says I was very successful. I did not intend to paint an accurate scenario about "Global Warming" (which is what it was called at the time), and a re-reading of my report shows very clearly I "succeeded" there, too. I mean consultants told the military that, by now, California would be flooded by inland seas, The Hague would be unlivable, polar ice would be mostly gone in summer, and global temperatures would rise at an accelerated rate as high as 0.5 degrees a year. "[Laughing] Isn't that a hoot?!? I mean, none of these has even come close to happening, but those predictions sure led to a lot of bad outcomes for spending and national security." In other words, these criminals and thugs were looking for an excuse, any excuse to control our energy resources and usher in the One World Government. They've fallen on this lie and hoax as a means by which to do so.

Here is the REAL science behind so-called Global Warming and Climate Change;

(1) The world mean temperature has continually gone down slightly since 1995, stabilizing in 1998. Satellite data shows any temperature changes since 2001 as being "insignificant". 2014 was .02 degrees warmer than any (NASA) previously recorded year, the margin of error being .01 degrees meaning of course that 2014

was .01 degrees warmer than any previous year.

(2) 90% of the worlds ice pack is in the antarctic. In 2013 the ice pack INCREASED by 1/3, by 2014 it had increased to it's HIGHEST recorded level.

(3) Forest fires have gone down 15% since 1950; droughts have remained the same for the past 60 years. Hurricanes and tornadoes have reduced dramatically in length and intensity over the course of the past 20 years.

(4) It is both physically and biology impossible for mankind to affect the kind of horrific results on our environment the global warming & climate change frauds charge us with. We simply are NOT capable of causing the kind of damage put fourth by these phony scientists. However when you own the mainstream media, the cowardly pawns in the Weather stations such as NOAA, the Weather channel (two of the biggest liars and puppets the world has yet seen) it is easy to perpetrate constant lies. (A) The only real climate change has been affected by the US Government and the Russian Government using HAARP, GWEN and the constant spraying of Chemtrails. The data and photos of these technologies are everywhere on the Internet. The idiot so-called physicists/scientists have altered the jet stream, and thusly the weather by offsetting the North and South poles by .04 degrees. Yes, the weather has been changed/altered and it was the goons in the Federal Government who affected these changes.

Beginning with the 'Global Warming Conference' scheduled for November, 2015 Global Warming will be used as a hype to produce fear and give the UN more global control. The 'findings' that come from this farce of a conference will be used to (a) limit access to transportation and fuel (b) influence what foods will be available (c) it will dictate family planning and birth control telling people if they can or cannot have children (d) it will also dictate 'global' business practices to all Businesses and finally it will dictate Governmental policies to all State and Local Governments. This is a movement to centralize control over the whole world; control from 'cradle to the grave'. The One World Government, via the UN will imprison and execute anyone who speaks out against it, or acts against it, ESPECIALLY Christians. This is their planned enslavement, Global Warming and Climate Change is merely the EXCUSE, the method they are using to implement absolute control over the worlds population. Then they will begin to rapidly reduce that population by murdering billions. Ultimately their goal is a world population of 500,000 - enough slaves to keep up their lifestyles. They refer to us as 'The Eaters' (George Bush Sr.'s favorite), 'Chattel', the Hebrew word for cattle. I've got news for them, we'll very soon find out who the real 'eaters' are.....

Global Warming and Climate Change is a LIE, a HOAX and a SCAM of epic proportions so get involved now and stop it, or loose everything you have - YOUR Freedom, YOUR Life. They may even try and use RICO, developed to fight organized crime, against any Corporation, Company or individual who disagrees with their Global warming philosophy! Remember all those white crosses at Arlington, Normandy, grave sites in the Pacific theater? It's (past) time to pick up our GUNS and clean house.....completely. It's time for WAR.....

From: [Westergaard, Linda C.](#)
To: [Cownie, Frank](#)
Subject: HF 484
Date: Wednesday, March 15, 2017 2:14:26 PM
Attachments: [BHHS-East--FRE1_20170315_132813.pdf](#)

Attached is what I pulled off the site while we were talking today. The amendments were added yesterday.

Thank you for taking the time to visit with me.

Thank you,

Linda Westergaard
Ward 2 City Council Representative
4009 E. 23rd Street
Des Moines, Iowa 50317-4104
515-988-4288

lindaw@dmgov.org

-----Original Message-----

From: FRcopiers@BhhsFirstRealty.com [<mailto:FRcopiers@BhhsFirstRealty.com>]

Sent: Wednesday, March 15, 2017 1:28 PM

To: Linda Westergaard <lindaw@bhhsfirstrealty.com>

Subject: Scan from BHHS-First Realty Altoona

Reply to: BHHS-East- <FRcopiers@BhhsFirstRealty.com> Device Name: First Realty Altoona Device Model: MX-M465N

Location: First Realty Altoona

File Format: PDF (Medium)

Resolution: 200dpi x 200dpi

Attached file is scanned image in PDF format.

Use Acrobat(R)Reader(R) or Adobe(R)Reader(R) of Adobe Systems Incorporated to view the document.

Adobe(R)Reader(R) can be downloaded from the following URL:

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<http://www.adobe.com/>

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House File 484

H-1196

1 Amend House File 484 as follows:

#1. 2 1. Page 2, line 7, after <transport> by inserting
3 <or store>

#2. 4 2. Page 2, after line 24 by inserting:
5 <Sec. _____. REGIONALIZATION REPORTING. Each
6 city council serving as a governing body of a water
7 utility under section 388.12, and any regional entity
8 established to provide water services by such a city
9 council or city councils, if such a regional entity
10 exists by February 1, 2018, shall submit a progress
11 report to the general assembly by February 1, 2018,
12 documenting water service regionalization efforts.>

#3. 13 3. By renumbering as necessary.

KLEIN of Washington

HF484.1196 (4) 87

-1-

aw/rj

1/ 1

House File 484

H-1187

1 Amend House File 484 as follows:

#1.

2 1. Page 2, after line 18 by inserting:

3 <4A. Notwithstanding any provision of law to the
4 contrary, a city council acting as the governing body
5 of a water utility under this section shall not approve
6 the use of any revenues attributable to the provision
7 of water services or water utility operations, or any
8 revenues attributable to the lease, sale, or other
9 disposition of the property and facilities of the water
10 utility, for any purpose unrelated to the provision of
11 water services. >

#2.

12 2. By renumbering as necessary.

HALL of Woodbury

House File 484 - Introduced

HOUSE FILE 484
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HF 316)

A BILL FOR

1 An Act relating to the governing of certain water utilities and
2 including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2070HV (2) 87
aw/rn/rj

H.F. 484

1 Section 1. NEW SECTION. **388.12 Water utility board**
2 **discontinuance and dissolution — governing body provisions.**
3 1. Notwithstanding the provisions of section 388.2 to
4 the contrary, upon the effective date of this Act, the board
5 of water works trustees of a water utility in cities in a
6 statistical area described in subsection 5, with a population
7 greater than thirty-nine thousand as determined by the most
8 recent federal decennial census, shall be discontinued,
9 dissolved, and shall cease to be the governing body of the
10 water utility and the city councils of the cities described
11 in this subsection shall thereafter be the governing bodies
12 of the water utilities and the city councils of the cities
13 shall have all the powers and authorities of the city with
14 respect to the acquisition by purchase, condemnation, or
15 otherwise lease, sale, or other disposition of the property and
16 facilities of the water utility, and the management, control,
17 and operation of all facets of the water utility, subject to
18 the requirements, terms, covenants, conditions, and provisions
19 of any resolutions authorizing the issuance of revenue bonds,
20 pledge orders, or other obligations which are payable from the
21 revenues of the water utility which are then outstanding. Any
22 property not held in the name of the city as required under
23 section 388.4, subsection 2, shall be retitled in the name of
24 the appropriate city as soon as legally practicable.
25 2. The city managers employed by the city councils that
26 set the compensation of the members of a board of a water
27 utility under this section shall designate the administrator
28 of a department or administrative division of that city to be
29 the manager of the water supply system in that city subject
30 to the approval of the city council. The administrator
31 designated under this subsection shall not be considered a
32 civil service employee under section 400.17 and shall serve
33 under the control and direction of the city manager of that
34 city. The administrator may be terminated at will, subject to
35 any contract in place on the effective date of this Act.

LSB 2070HV (2) 87

-1-

aw/rn/rj

1/ 4

H.F. 484

1 3. On and after the effective date of this Act and
2 continuing until January 1, 2018, a water utility of any city
3 subject to this section is prohibited from expending any moneys
4 or staff time to plan, design, or construct any new water
5 plant or other water-producing facility other than a facility
6 currently under contract for construction or a distribution
7 facility that will transport water but not produce water.

8 4. Notwithstanding any provision of this section to the
9 contrary, no provision or application of this section shall
10 in any manner restrict or otherwise impair a water utility
11 from performing its obligations and complying with the terms,
12 conditions, covenants, requirements, restrictions of federal
13 or state laws, regulations, or rules, bond resolutions,
14 obligations, or agreements relating to outstanding indebtedness
15 of the water utility, existing chapter 28E agreements and
16 contracts, including without limitation contracts related to
17 the operations, maintenance, repair, or improvements of the
18 water utility.

19 5. For the purposes of this section, "water utility" means
20 a city utility that provides water services, that is located in
21 a federally designated standard metropolitan statistical area
22 that has a population greater than five hundred thousand, as
23 shown by the most recent federal decennial census, and that is
24 located entirely within the state.

25 Sec. 2. SEVERABILITY. If any word, phrase, clause,
26 sentence, paragraph, or provision of this Act or the
27 application of such to any person or circumstance is declared
28 invalid, illegal, or unenforceable, or unconstitutional for any
29 reason, the remaining provisions or applications of this Act
30 shall not be affected by such declaration and to this end, the
31 provisions of this Act are severable.

32 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
33 immediate importance, takes effect upon enactment.

34 EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

LSB 2070HV (2) 87

-2-

aw/rn/rj

2 / 4

H.F. 484

1 the explanation's substance by the members of the general assembly.

2 This bill relates to the governing of certain water
3 utilities by requiring the discontinuance and dissolution
4 of the board of trustees for certain water works upon the
5 effective date of the bill. The bill provides that such boards
6 of trustees shall cease to be the governing body of the water
7 utility and provides that the city councils of certain cities
8 described in the bill shall be the governing bodies of such
9 water utilities.

10 The bill provides that the city councils of such cities
11 shall have all the powers and authorities of the city with
12 respect to the acquisition by purchase, condemnation, or
13 otherwise lease, sale, or other disposition of the property and
14 facilities of the water utility, and the management, control,
15 and operation of all facets of the water utility, subject to
16 the requirements, terms, covenants, conditions, and provisions
17 of any resolutions authorizing the issuance of revenue bonds,
18 pledge orders, or other obligations which are payable from the
19 revenues of the water utility which are then outstanding. The
20 bill also requires the retitling of certain real property.

21 The bill requires that city managers of such cities
22 designate a manager of the water supply system for each city,
23 subject to the approval of the relevant city council. A water
24 utility, under the bill, is prohibited from making certain
25 expenditures from the effective date of the bill until January
26 1, 2018.

27 The bill specifies that no provision or application of the
28 bill shall in any manner restrict or otherwise impair a water
29 utility from performing its obligations and complying with the
30 terms, conditions, covenants, requirements, restrictions of
31 federal or state laws, regulations, or rules, bond resolutions,
32 obligations or agreements relating to outstanding indebtedness
33 of the water utility, existing Code chapter 28E agreements and
34 contracts, including without limitation contracts related to
35 the operations, maintenance, repair, or improvements of such a

LSB 2070HV (2) 87

-3-

aw/rn/rj

3/ 4

H.F. 484

1 water utility. The bill also specifies that the provisions of
2 the bill are severable.
3 The bill takes effect upon enactment.

-4-

LSB 2070HV (2) 87
aw/rn/rj

4/ 4

From: [Sanders, Scott E.](#)
To: CColeman@dm.bbb.org; [Christine Hensley \(CLHensley@DMGOV.ORG\)](mailto:CLHensley@DMGOV.ORG); [Cownie, Frank](#); [Gatto, Joe P.](#); [Moore, Skip](#); [Westergaard, Linda C.](#); [William \(Bill\) Gray \(BillGray@dmgov.org\)](mailto:BillGray@dmgov.org)
Subject: Housing budget question on Contracts and Fees
Date: Sunday, February 21, 2016 8:08:00 PM
Attachments: [FY17 Housing Budget Charts.xlsx](#)

Mayor and Council,

Attached is more detail on the Contracts and Fees paid by the divisions; Section 8 and Public Housing.

Note, there are two tabs. I can print these for you if you are unable to read on your computer.

Under the Contracts portion for both PH and Sect 8, the Indirect Costs are for back office support from other City departments such as HR and Finance.

Central Office indicates where costs are shared such as book keeping and banking which is a much bigger number for Section 8 given the vouchers outnumber the PH units.

Scott

Public Housing Budget

	Proposed	
Revenue	FY17	
Net Tenant Rental Revenue	\$1,345,899	rental revenue
Tenant Revenue - Other	\$62,422	rental revenue
HUD PHA Operating Grants	\$952,722	HUD Revenues
Capital Grants	\$113,240	HUD Revenues
Investment Income - Unrestricted	\$3,976	
Gain or Loss on Sale	\$0	
Other Revenue	\$34,034	other(Laundry, Vending, Etc)
Total Revenue	\$2,512,293	
Expenses		
Salaries and Benefits		
Salaries	\$701,126	
Benefits	\$259,320	
	\$960,446	
Contracts		
Audit Expense	\$16,539	
Maintenance - Contracts	\$414,580	
Protective Services	\$78,679	
Indirect Costs	\$94,925	
Payments in Lieu of Taxes	\$89,074	
	\$693,797	
Fees		
Management Fee	\$229,665	Goes to Central Office
Book-keeping Fee	\$35,976	Goes to Central Office
Asset Management Fee	\$50,220	Goes to Central Office
	\$315,861	
Commodities		
Admin Other	\$136,021	Postage, Paper, Copier, Phones, Etc
Water	\$35,229	Manors and scattered units
Electricity	\$169,785	Manors and scattered units
Gas	\$85,349	Manors and scattered units
Sewer	\$77,835	Manors and scattered units
Maintenance - Materials and Other	\$59,992	
Total insurance Premiums	\$84,354	
Other General Expenses	\$1,941	
Bad debt - Tenant Rents	\$31,987	
	\$682,493	
Total Expenses	\$2,652,597	
Actual Budget Net Profit or (Loss)	(\$140,304)	
Dispo Funds Transfer	\$140,304	
Net Profit or (Loss)	(\$0)	

From: [Sanders, Scott E.](#)
To: [Coleman, Chris](#); [Hensley, Christine L.](#); [Cownie, Frank](#); [Gatto, Joe P.](#); [Moore, Skip](#); [Westergaard, Linda C.](#); [Gray, William S.](#)
Subject: Housing budget question on Contracts and Fees
Date: Sunday, February 21, 2016 8:08:57 PM
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Net Profit or (Loss)	(\$0)	

From: eva.madeira@iclei.org
To: [Cownie, Frank](#); [T.M.Cownie](#); [Romer, Amanda M.](#); [McCroskey, Monica J.](#)
Subject: ICLEI Membership Assembly meeting - 4 September, 2015
Date: Wednesday, August 19, 2015 11:32:06 AM
Attachments: [Invitation Board of ICLEI e.V. Bonn 4 September FC.pdf](#)
[01 Balance sheet 2014.pdf](#)
[02 Income statement 2014.pdf](#)
[2014 Management report -eng-final 2015 08 19.pdf](#)
[ICLEI Proxy template.docx](#)
[Independent Auditor"s Report 2014 2015 08 19.pdf](#)

Dear member of the Assembly and Vice-president of the ICLEI e.V Board

I am pleased to send you the official invitation (attached) to the next ICLEI Membership Assembly meeting taking place on **Friday, 4 September at 06:00 GMT+2 (Bonn time)**

Mr. Frank Cownie - 23:00 GMT-5 Des Moines time

Ms. Cathy Oke - 14:00 GMT+10 Melbourne time

Mr. Pekka Sauri - 07:00 GMT+3 Helsinki time

Mr. David Cadman - 21:00 GMT-7 Vancouver time

Ms. Mary Jane Ortega - 12:00 GMT+8 Manila time

We are very pleased to know that in principle all of you have [confirmed](#) availability of attendance. We know that it is quite the task, given the time zone differences.

In addition, please also find attached the draft files sent from the Auditor. We expect to receive the signed Auditor report by the time of the meeting itself.

Regards,

--

Gino Van Begin

Secretary General

ICLEI - Local Governments for Sustainability
World Secretariat
Kaiser-Friedrich-Str. 7
53113 Bonn
Germany

Tel. +49-(0)228 / 976 299-14

Fax +49-(0)228 / 976 299-01

Email: secretary.general@iclei.org

Twitter: [@ICLEI](#)

Web: www.iclei.org

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ICLEI is the world's leading network of over 1,000 cities, towns and metropolises committed to building a sustainable future. By helping our Members to make their cities sustainable, low-carbon, resilient, biodiverse, resource-efficient, healthy and happy, with a green economy and smart infrastructure, we impact over 20% of the global population.

Secretary General

ICLEI World Secretariat
Kaiser-Friedrich-Str. 7
53113 Bonn
Germany

Phone: +49-228/976 299-11

Fax: +49-228/976 299-01

Email: secretary.general@iclei.org

Legally represented by
ICLEI e.V., Bonn

World Wide Web

www.iclei.org

Mr. Frank Cownie
Mayor
Des Moines, Iowa
USA

Bonn, 19 August 2015

Invitation to meeting of the ICLEI e.V. Bonn Membership Assembly, 4 September 2015

Dear ICLEI e.V. Bonn Membership Assembly member and Vice President of the ICLEI e.V Board

In compliance with the ICLEI – Local Governments for Sustainability articles of association (article §11.3) we hereby call for a meeting on **Friday, 4 September at 06:00 GMT+2 (23:00 GMT-5 Des Moines time)** to which you are cordially invited.

The proposed agenda items are as follows:

1. Approval of the audited statements of accounts for the ICLEI e.V. (Bonn) for the year 2014
2. Release the Executive Director of Liability for the 2014 Accounts;
3. Appointment of the auditor in 2016 for the 2015 audited statements
4. Other business;

Annexes: Audited statements of accounts for the ICLEI e.V. (Bonn) for the year 2014 and supporting documents.

In case you are prevented to attend the call, please provide your proxy to one of the other Assembly members (template attached).

Kind regards,



Gino Van Begin
Secretary General
ICLEI - Local Governments for Sustainability

ICLEI - Local Governments for Sustainability e.V.

Bonn

Balance Sheet at 31 December 2014

ASSETS	€	12/31/2014 €	12/31/2013 €	EQUITY & LIABILITIES	12/31/2014 €	12/31/2013 €
A. Fixed assets				A. Shareholder's equity		
I. Intangible assets				Earmarked reserves		
Licences and similar rights	983.00		1,650.00	according to sec. 62 (I) No. 1 AO	864,684.26	816,536.69
II. Tangible assets				B. Provisions		
Office equipment	<u>47,432.00</u>	48,415.00	59,099.00	1. Pension provisions		
				and similar obligations	86,775.17	104,718.05
III. Financial assets				2. Other provisions	<u>130,678.46</u>	217,453.63
Shares in affiliated companies		<u>4,487.66</u>	<u>4,487.66</u>			124,703.02
		52,902.66	65,236.66	C. Accounts payable		
B. Current assets				1. Trade payable	49,128.05	91,799.47
I. Receivables and other assets				2. Other accounts payable	<u>24,094.78</u>	73,222.83
1. Membership fees	55,667.20		39,456.19	(of which taxes: € 16,835.49;		142,407.39
2. Grants	109,131.42		255,571.01	previous year: € 55,670.90)		
3. Other assets	<u>54,820.68</u>	219,619.30	26,872.03	(of which social security payables:		
				€ 0.00; previous year: € 7,446.79)		
II. Cash on hand and bank balances		1,210,845.19	2,500,864.67	D. Deferred income	328,499.08	1,608,626.75
C. Prepaid expenses						
and deferred charges		492.65	790.81			
		<u>1,483,859.80</u>	<u>2,888,791.37</u>		<u>1,483,859.80</u>	<u>2,888,791.37</u>

ICLEI - Local Governments for Sustainability e.V.
Bonn
Income Statement
for the fiscal year from 01/01/2014 to 31/12/2014

	2014	2013
€	€	€
1. Other operating income		
a) Project-related revenues	3,053,271.39	2,852,272.23
b) Membership fee revenues	172,605.80	259,353.00
c) Start-up grant funding	0.00	265,133.24
d) Other	20,592.61	27,086.32
	<u>3,246,469.80</u>	<u>3,403,844.79</u>
2. Project-related external costs	-1,470,157.58	-1,322,045.39
3. Personnel expenses		
a) Wages and salaries	-1,179,265.99	-1,029,549.70
b) Social security, pension and other benefits	-236,226.96	-205,869.59
(of which relating to pensions:	14,134.32	
previous year:	15,929.32)	
4. Amortization and depreciation		
a) of intangible and tangible assets	-22,409.86	-30,246.02
b) of current assets, insofar as they exceed normally company depreciation	<u>-8,310.00</u>	<u>-2,540.00</u>
5. Other operating expenses	-279,819.39	-333,006.94
6. Other interest and similar income	1,648.37	2,418.58
7. Interest and similar expenses	<u>-3,780.82</u>	<u>-7,513.83</u>
8. Net operating income	48,147.57	475,491.90
9. Consumption of the last year's earmarked reserves	816,536.69	341,044.79
10. Transfer into the earmarked reserves according to sec. 62 (I) No. 1 AO	-864,684.26	-816,536.69
11. Net income for the year	<u><u>0.00</u></u>	<u><u>0.00</u></u>



Management report for 2014

After the early stages of its development, the association ICLEI – Local Governments for Sustainability e. V. is currently in a stage of continuous consolidation and strengthening.

1. Economic situation 2014

In financial terms, the year 2014 has been satisfactory.

- The financial year 2014 closed with an allocation of funds into the reserve.
- There has been cash available all year round.
- The remitted membership fees (according to a decision by the ICLEI governance board, 35% of the worldwide membership fees (except from developing countries) should be allocated to the World Secretariat) decreased by 87,000€ as compared to the previous year. This decrease can be attributed to the economic challenges, being faced by some regional offices, which led them to not being able to pay their budgeted contributions to the ICLEI e.V (World Secretariat) for that year.

2. Project development 2014

The project development and related funding in 2014 has been satisfactory.

- The number of projects was slightly higher than those of previous years.
- The funding volume was slightly higher, mainly due to the project “Urban-LEDS”, which is running with full capacity since 2013. While the largest project (Urban-LEDS) still runs until 2016, seventeen other projects were completed either during or by the end of the year.
- Three projects are annually recurring projects, such as the Resilient Cities Congress in Bonn.
- All projects implemented in 2014 had a global dimension or served the global development of the association, including all conference projects. While some projects worked with selected model countries / model cities, others use a city to showcase internationally relevant policy innovation. Several projects concentrate(d) on global advocacy or assisted to advance and develop systems that showcase the relevance of local sustainability activities.
- Projects implemented by ICLEI e.V. are funded by grants for the larger part or conducted as service contracts to a small extent.
- Other ICLEI-Regional offices were involved in some projects that are conducted by and through the ICLEI e.V. (ca. k€ 784).

Statistic and Facts:

	2014
Number of projects with cost center (including very small projects)	27
... among these, projects financed through grants / sum in EUR	19 / K € 2,447
Number of projects with start or end date outside the business year	4
Project with the largest funding volume	Urban-LEDS
Number of sponsors and contract partners, without membership dues	24
Number of events (with cost center, not including smaller events in projects)	2 (Metropolitan Solutions and Resilient Cities) 1 (Startup phase: World Congress Seoul 2015)
New partners / sponsors in this year	7

The project related proceedings are structured as follows:

Project- related purchased services	T€	
Urban LEDS Phase 2	1,367	44.8 %
GIZ	303	9.9 %
Resilient Cities 2014	255	8.3 %
World Congress Seoul 2015	231	7.6 %
Metropolitan Solutions 2014	213	7.0 %
Urban „Nexus“	211	6.9 %
Übrige	473	15.5 %
Insgesamt	3,053	100 %

3. Internal Organization 2014

The internal organization of the association has been adapted to the growing tasks, projects and number of employees in 2014

- The scope of functions for team leaders was further strengthened by their increased responsibilities and periodic team leaders' meetings. These meetings serve as a platform to

discuss, exchange and coordinate strategic issues, partner contacts and internal management issues.

Staff development has been positive and without problems.

- Staff development at ICLEI e.V. is characterized by the respective opportunities in project funding, which leads to the temporary increase or decrease of capacities.
- Particularly the communications, administration and finance teams increased in number this year in order to meet growing demands and fulfil their tasks.
- The team consists of young and international employees with great expertise.
- The team leaders' level remained unchanged in the year 2014.

Statistic / Facts:

	2014
Number of Staff in January	37
Number of Staff in December	39
total number of staff employed during the year	51
total number of staff, employed continuously throughout the year	26
Average number of employees (monthly)	38
employees with permanent contracts	11
total number of interns employed during the year	11 + 3 Leonardo interns
Nationalities represented in Teams (including dual citizenship)	22
languages spoken	26
total number of hours worked in the year, without vacation, public holidays and sick leave	64,964

4. Future prospects for 2015

The currently secured projects for 2015 as well as those under development and acquisition, permit a confident outlook for 2015. The development of membership fees however is unsure, since some regional secretariats will continue to face financial challenges in 2015.

Provisions for this situation have been made in the ICLEI e.V. 2015 budget and thus it is not perceived as risk factor. Despite the generally positive situation, all employees are encouraged to prioritise expanding contacts and working on project design and acquisition.

Bonn, 30 June 2015

Gino Van Begin

Executive Director, ICLEI e.V.

ICLEI Proxy Statement

BE IT KNOWN, that I,, an ICLEI Membership Assembly member appoint as my DESIGNATED PROXY HOLDER and agent for me and in my name, place and stead, to vote as my proxy at the ICLEI Membership Assembly meeting, to be held on 4 September, 2015, or any adjournment thereof, for the transaction of any business which may come before the meeting, and for me and in my name, to act as fully as I could do if personally present; and I herewith revoke any other proxy heretofore given.

WITNESS my hand and seal this _____ Day of August 2015.

CITY, COUNTRY

Signed:

ICLEI – Local Governments for Sustainability e.V.

Bonn

Independent Auditor's Report

for the year ended

31 December 2014

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1. Nature and Purpose of Engagement

Following the decision of the Executive Board of ICLEI e.V, Mr. Gino Van Begin, the Executive Director of ICLEI – Local Governments for Sustainability e.V., Bonn/Germany (hereafter referred to as “ICLEI”), engaged RENTROP & PARTNER KG, Wirtschaftsprüfungsgesellschaft Steuerberatungsgesellschaft, Bonn/Germany, to perform an audit of the financial statements as of 31 December 2014 as well as of the management report 2014.

We audited the accompanying financial statements prepared by ICLEI e.V, consisting of the balance sheet, the related income statement and the notes concerning the essential accounting and valuation methods, together with the management report for the fiscal year 2014.

The main emphasis of our examination was in the audit fields revenue recognition, project accounting and personnel accounting.

We performed our work – with interruptions – from 18 June 2015 through 20 August 2015 at the offices of the ICLEI e.V. as well as at our office.

The Executive Director has provided us with a written statement to the effect that all information and explanations that was given to us in relation to the audit are complete and correct.

Our engagement and our liability are based upon the General Engagement Terms for German Public Auditors and Public Audit Firms as of January 1, 2002, attached to this report as appendix 5.

2. General Information

According to the section 2.4 of the articles of association ICLEI - Local Governments for Sustainability e.V. pursues a non-for-profit activity and is altruistic in its action. The association is acknowledged and certified as a non-for-profit organization by the German tax authorities. For this purpose, ICLEI is exempt of corporate income taxes.

All other taxes upon ICLEI as well as all social security contributions have been paid by ICLEI in a correct manner. Wage taxes and social security contributions have been paid on a monthly basis. For value added taxes (VAT), monthly prepayments have been made.

As a non-for-profit association, ICLEI does not pursue commercial purposes. Usually, if a reporting period ends with a revenue surplus, this surplus will be transferred in an earmarked reserve for the expenditure of the following period(s).

3. Summary of Audit Findings for the Reporting Period

The reporting period is characterized by a process of strengthening existing structures as well as the development of new project-related activities.

The financing of the association is solely covered by project-related third-party funding, membership contributions and small-sized grants, whereby the acquisition and implementation of projects crucially depend on the fund raising capacities of management. Due to the requirements of the operating business activities ICLEI has established a cost-based comprehensive documentation and reporting system which allowed generating a wide range of evaluation options. This system constitutes an essential basis for the internal business management. Our examination of the internal control procedures which are implemented by the management has not led to any significant objections.

In addition, no significant accounting and auditing issues arose. Furthermore, no misstatement which could have an essential impact on the true and fair view of the reporting figures came to our attention. Especially, the procedures applied by the association relating to revenue recognition, project accounting and personnel accounting are carried out in an apparently correct and acceptable manner.

Our audit of the financial statements of ICLEI has not led to any reservations. We refer to our below-mentioned Independent Auditor's Report (see item 5.).

4. Major Fluctuations of Profit and Loss and Balance Sheet Items

Key figures of the income statement:

	FY 2014	FY 2013	Change	
	in k€	in k€	in k€	in %
Total income	3.246	3.404	-158	-4,6
Project related external costs	-1.470	-1.322	-148	11,2
Personnel expenses	-1.415	-1.235	-180	14,6
Amortization and depreciation of fixed assets	-23	-30	7	-23,3
Other operating expenses	-280	-333	53	-15,9
Operating result	58	484	-426	-88,0
Financial result	-2	-5	3	
Non-recurring expenses	-8	-3	-5	
Surplus for the year	48	476	-428	-89,9
Consumption of the last year's earmarked reserves	817	341	476	
	865	817	48	
Transfer into the (new) earmarked reserves	-865	-817	-48	
Net income for the year	0	0	0	

The major fluctuations in the P&L items can be explained as follows:

Total income: in the reporting period the business operations are essentially funded by two sources of income: project-related revenues and membership fees. The project-related revenues are slightly increased but they are not able to compensate the decline in the other fields completely. The start-up grant funding expired by 30 June 2013 at latest. In comparison with the previous period, the total income decreased by 4.6 %.

	FY 2014		FY 2013		Change	
	in k€	in %	in k€	in %	in k€	in %
Project-related revenues	3.053	94,1	2.852	83,8	201	7,0
Membership fee revenue	173	5,3	260	7,6	-87	-33,5
Start-up grant funding	0	0,0	265	7,8	-265	-100,0
	3.226	99,4	3.377	99,2	-151	-4,5
Other	20	0,6	27	0,8	-7	-25,9
Total income	3.246	100,0	3.404	100,0	-158	-4,6

The development of project-related revenues directly depends on the nature and scope of the individual projects. As in the previous year, the Urban-LEDS project represents the largest.

	FY 2014		FY 2013		Change	
	in k€	in %	in k€	in %	in k€	in %
Urban LEDS	1.367	44,8	885	31,0	482	54,5
GIZ project consulting relating to municipal and urban development	303	9,9	138	4,8	165	>100,0
Resilient Cities Congress	255	8,4	320	11,2	-65	-20,3
World Congress 2015	231	7,6	0	0,0	231	100,0
Global Town Hall@Metropolitan Solutions	213	7,0	252	8,8	-39	-15,5
GIZ Nexus	211	6,9	39	1,4	172	>100,0
Rio+20 follow up	78	2,6	33	1,2	45	>100,0
NRW Carbons	78	2,6	0	0,0	78	100,0
EcoMobility Alliance	61	2,0	118	4,1	-57	-48,3
EcoMobility Festival Suwon	4	0,1	489	17,1	-485	-99,2
EcoMobility Congress Suwon	0	0,0	176	6,2	-176	-100,0
Nantes Climate Summit 2013	0	0,0	184	6,5	-184	-100,0
Other	252	8,3	218	7,6	34	15,6
Total project-related revenue	3.053	100,0	2.852	100,0	201	7,0

According to practice and arrangements with other regional or country-based ICLEI offices, 35 % of the worldwide membership dues (except from emerging countries) should be paid to the World Secretariat. Nevertheless, the absolute amount of membership fees received yearly by the ICLEI e.V. (ICLEI World Secretariat) depends on the relevant income conditions of the regional offices. Due to continued economic crisis in some countries the membership fees have been decreased rapidly.

Project-related external costs: the level of project-related external costs is due by the concerning project-related activities. For the Urban LEDS project, several major activities have been performed together with other regional ICLEI offices. In such and similar cases, the ICLEI e.V. (ICLEI World Secretariat) was responsible for certain global activities, for project monitoring as well as for the distribution of tasks and transmitted prorated funds to the involved regional offices for performed local project activities with Urban LEDS.

Personnel expenses: the increase of personnel expenses was due to the continuing extension of own staff capacities for implementing projects. This development goes hand in hand with the expansion of the number of projects. The average number of staff employed during the year raised up from 32 in the prior year to 38 in the reporting period. The total number of hours worked in the year increased by 7.2 %.

Other operating expenses: the decrease of the other operating expenses was due to corresponding reductions in general expenses (or because of the fact that such expenses could be attributed to projects), except marketing expenses.

	FY 2014		FY 2013		Change	
	in k€	in %	in k€	in %	in k€	in %
IT-Services	106	37,9	114	34,2	-8	-7,0
Maintenance expense relating to hard- and software	71	25,4	95	28,5	-24	-25,3
Public relations	1	0,4	26	7,8	-25	-96,2
Other	102	36,4	98	29,4	4	4,1
Total other operating expenses	280	100,0	333	100,0	-53	-15,9

Non-recurring expenses: the non-recurring expenses refer to impairment on outstanding membership contributions. These write-downs are non-recurring expenses and are shown in the statutory income statement as depreciation of current assets.

The **revenue surplus**, which remains after deducting expenses and taking into account the use of prior year reserve, was **transferred into the earmarked reserve**. This reserve shall be used to cover a part of the planned expenses of the ongoing business operations in the following period. At the end of fiscal year 2014 the earmarked reserve amounts to k€ 865.

Key figures of the balance sheet:

	FY 2014		FY 2013		Change	
	in k€	in %	in k€	in %	in k€	in %
Assets						
Non current assets						
Fixed assets	53	3,6	65	2,2	-12	-18,5
Current assets						
Membership fees	56	3,8	39	1,3	17	43,6
Grants	109	7,3	256	8,9	-147	-57,4
Cash & cash equivalents	1.211	81,6	2.501	86,6	-1.290	-51,6
Other receivables and prepaid exp.	55	3,7	28	1,0	27	96,4
Total current assets	1.431	96,4	2.824	97,8	-1.393	-49,3
Total assets	1.484	100,0	2.889	100,0	-1.405	-48,6
Equity and liabilities						
Shareholder's equity						
Earmarked reserves	865	58,3	817	28,3	48	5,9
Total equity	865	58,3	817	28,3	48	5,9
Non current liabilities						
Pension provisions and similar obligations	87	5,9	105	3,6	-18	-17,1
Total non current liabilities	87	5,9	105	3,6	-18	-17,1
Current liabilities						
Trade payable	49	3,3	92	3,2	-43	-46,7
Other payables and accrued exp.	155	10,4	266	9,2	-111	-41,7
Total current liabilities	204	13,7	358	12,4	-154	-43,0
Deferred income	328	22,1	1.609	55,7	-1.281	-79,6
Total equity and liabilities	1.484	100,0	2.889	100,0	-1.405	-48,6

The major fluctuations in the balance sheet items can be explained as follows:

Fixed assets: the decrease in fixed assets is due to the ordinary amortization and depreciation on tangible and intangible assets. The investments (k€ 12) and disposals (k€ 1) which have taken place in the current period relate to capital expenditure for IT hardware and other office equipment.

Membership fees: the main part of outstanding membership fees refers to the current period (2014).

	FY 2014 in k€	FY 2013 in k€	Change	
			in k€	in %
Membership fees				
Current period	52	36	16	
Prior years	4	3	1	
	56	39	17	43,6

Grants: the decrease of grants is caused by the development of open items relating to project-related funds.

	FY 2014 in k€	FY 2013 in k€	Change	
			in k€	in %
Grants				
Project-related funds	106	252	-146	
Other	3	4	-1	
	109	256	-147	-57,4

Cash & cash equivalents / deferred income: in both cases, decreases primarily refer to the use of advanced payments for activities within several large-scale projects which are performed in the reporting period.

	FY 2014 in k€	FY 2013 in k€	Change	
			in k€	in %
Deferred income				
Advance payments relating to projects	319	1.607	-1.288	
Other	9	2	7	
Total	328	1.609	-1.281	-79,6

Other receivables: the increase of other receivables is a result of ordinary business activities and mainly balance-sheet driven.

Other payables and accrued expense: the other payables and accrued expenses are broken down as follows:

	FY 2014 in k€	FY 2013 in k€	Change in k€ in %	
Other payables and accrued expense				
Accruals for funds which have to reimburse to the beneficiaries	82	82	0	
Accrued personnel expense	43	33	10	
VAT and wage tax payables	17	56	-39	
Project-related funds which have to transfer to the third parties	0	69	-69	
Other	13	26	-13	
Total	155	266	-111	-41,7

5. Independent Auditor's Report

To Mr Gino Van Begin

Executive Director of ICLEI – Local Governments for Sustainability e.V.

As auditor, we have audited the accompanying financial statements of ICLEI – Local Governments for Sustainability e.V. as of 31 December 2014, in particular the balance sheets, the related income statements and the notes for the year then ended as well as the management report 2014.

Executive Director's Responsibility for the Financial Statements

The Executive Director of the ICLEI e.V. is responsible for the preparation of the financial statements and the management report that must give a true and fair view in accordance with German Accounting Standards. This responsibility includes designing, implementing and maintaining an internal control system relevant to the preparation and fair presentation of financial statements as well as the management report that are free from material misstatement, whether due to fraud or error. The Executive Director is further responsible for selecting and applying appropriate accounting policies and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements and the management report based on our audits. We conducted our audits in accordance with the International Standards on Auditing, respectively, in accordance with the corresponding German Auditing Standards, in order to state whether, on the basis of the procedures described, we have become aware of any matter that makes us believe that the financial statements and the management report are not in accordance with the German Accounting Standards including: giving a true and fair view of the association's financial position as of 31 December 2014, and its performance for the year then ended.

As the auditor of ICLEI – Local Governments for Sustainability e.V., we have to comply with the ethical requirements relevant to the audit of the financial statements and the management report.

The auditing standards require that we plan and perform the audits to obtain reasonable assurance whether the financial statements and the management report are free from material misstatement.

An audit involves performing procedures to obtain audit evidences about the amounts and disclosures in the financial statements and the management report. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements as well as the management report, whether due to fraud or error. In making those risk assessments, the auditor considers the internal control system relevant to the entity's preparation and fair presentation of the financial statements and management report in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made, as well as evaluating the overall presentation of the financial statements and management report. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Auditor's Independence Declaration

In conducting our audits, we complied with the German and International Auditing Standards relevant to independence requirements. We confirm that to the best of our knowledge and belief, there have been no contraventions of the auditor independence requirements of International Auditing Standards in relation to the audits and to any applicable code of professional conduct in relation to the audits.

Auditor's statement of correct management

As auditor we hereby declare and certify that ICLEI - Local Governments for Sustainability e.V. is not in any of the following situations:

- bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations.

As auditor we hereby further declare and certify that the Executive Director of ICLEI - Local Governments for Sustainability e.V., Mr. Gino Van Begin, is not in any of the following situations:

- have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata; (i.e. against which no appeal is possible);
- have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organization or any other illegal activity detrimental to the EU's financial interests;
- have been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify.

Opinion

Based on our audit, we have no findings that make us believe that the year-end financial statements and the management report of ICLEI – Local Governments for Sustainability e.V. are not in accordance with German Accounting Standards, or do not give a true and fair view of the association's financial position as of 31 December 2014 and of its performance for the year then ended.

In our opinion, the financial statements and the management report referred to above present fairly, in all material respects, the financial position of ICLEI – Local Governments for Sustainability e.V. as of 31 December 2014, and the results of its operations for the year then ended, in accordance with accounting principles generally accepted in Germany.

In preparing this report, we have observed professional duties and principles stipulated in paragraphs 2 and 43 of the Wirtschaftsprüferordnung (law regulating the profession of Certified Public Accountants in Germany).

Bonn, 20 August 2015

RENTROP & PARTNER KG
Wirtschaftsprüfungsgesellschaft
Steuerberatungsgesellschaft

Hans W. Ronneberger
Wirtschaftsprüfer

Thomas Schiefelbusch
Wirtschaftsprüfer

From: Office of Justice Programs
To: [Cownie, Frank](#)
Subject: Important Reminders Regarding Required Training, Cash Management, and Whistleblower Protections
Date: Wednesday, January 03, 2018 10:50:10 AM
Attachments: [Att+1+-+DOJ+Whistleblower+Information.pdf](#)

Please review the information below regarding required grants financial management training, cash management procedures, and whistleblower protections that are applicable to Office of Justice Programs' (OJP) award recipients. If you believe that your organization may not be in compliance with any or all of these requirements, please take the steps indicated below and/or contact your OJP grant manager with any questions.

Required Training for the Award Point of Contact and All Financial Points of Contact

All awards made by OJP in FY 2016 and later have a special condition *requiring the Point of Contact (POC) and all Financial Points of Contact (FPOCs) in your organization* to successfully complete an "OJP financial management and grant administration training." Please check your organization's compliance with this award condition and, if applicable, have the POC and all FPOCs complete the training as soon as possible. The training may be completed in person or online. Additional information about OJP's financial management and grant administration training is available at <https://www.ojp.gov/training/fmts.htm>. ***An award recipient's failure to comply with this condition may result in OJP immediately proceeding to withhold ("freeze") award funds.***

The text of the award condition is as follows:

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2015, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after -- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2015, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

Cash Management for Subrecipients

Recent Office of the Inspector General audits and OJP monitoring visits have found instances where prime award recipients have not required subrecipients to manage their cash drawdowns in accordance with the cash management guidance contained in the 2015 DOJ Grants Financial Guide. Where the conduct of a program or one of its components is delegated to a subrecipient, the direct recipient remains responsible for all aspects of the program including proper accounting and financial recordkeeping by the subrecipient. The award recipient is responsible for the accounting of receipts and expenditures, cash management, maintenance of adequate financial records, and refunding of expenditures disallowed by audits. Award recipients should establish reasonable procedures to ensure the receipt of reports on subrecipients' cash balances and cash disbursements in sufficient time to enable them to prepare and submit complete and accurate financial reports to OJP.

An adequate financial system requires procedures for minimizing the time between the transfer of funds from the U.S. Department of the Treasury and disbursement by recipients and subrecipients whenever

advance payment procedures are used. Also, when advances are made by electronic funds transfer (EFT), your system should help you as the award recipient to make drawdowns as close as possible to the time of making disbursements. Funds must be used within 10 calendar days of the date drawn for allowable expenditures, or they must be returned to OJP. A prime recipient's financial management policies should include monitoring of cash drawdowns by subrecipients to ensure that they conform substantially to the same standards of timing and amount as apply to advances to the direct recipient.

Fund requests from subrecipients create a continuing cash demand on award balances of the award recipient. Award recipients should keep in mind that idle funds in the hands of subrecipients will impair the goals of effective cash management.

Whistleblower Policy

Recipients of OJP grants and cooperative agreements (and any subrecipients at any tier) must comply with, and are subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee of an OJP recipient by the OJP recipient as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

Recipients of OJP grants and cooperative agreements (and any subrecipients at any tier) must inform their employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712. Potential fraud, waste, abuse, or misconduct involving or relating to funds under the OJP award should be reported to the Office of the Inspector General by-- (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 950 Pennsylvania Avenue, N.W. Room 4706, Washington, DC 20530; (2) e-mail to: oig.hotline@usdoj.gov; and/or (3) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax). Additional information is available from the DOJ OIG website at <https://www.usdoj.gov/oig> and in the DOJ Whistleblower Information document attached to this email.

Thank you for your attention to these important requirements. As a reminder, financial management and other grant administration requirements are available for reference in the DOJ Grants Financial Guide <https://ojp.gov/financialguide/doj/index.htm> and in your award document. If you have any questions, please contact your OJP grant manager.

Ralph Martin

Director

Office of Audit, Assessment, and Management

- [Att+1+-+DOJ+Whistleblower+Information.pdf](#)

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*Department of Justice
Office of the Inspector General*

WHISTLEBLOWER INFORMATION

for

DEPARTMENT of JUSTICE CONTRACTORS, SUBCONTRACTORS, AND GRANTEES

Employees of Department of Justice contractors, subcontractors, and grantees perform an important service by reporting what they reasonably believe to be evidence of wrongdoing.

Whistleblowers perform an important service to the Department of Justice (DOJ) and the public when they come forward with what they reasonably believe to be evidence of wrongdoing. They should never be subject to reprisal for doing so.

Federal law protects federal employees against reprisal for whistleblowing. In addition, under the National Defense Authorization Act of 2013 (NDAA), it is illegal for an employee of a Federal contractor, subcontractor, or grantee to be discharged, demoted, or otherwise discriminated against for making a protected whistleblower disclosure. Also, under Presidential Policy Directive (PPD-19), an action affecting access to classified information cannot be taken in reprisal for protected whistleblowing.

The Department of Justice Office of the Inspector General (DOJ OIG) has jurisdiction to investigate allegations of reprisal for whistleblowing by employees of DOJ contractors, subcontractors, and grantees. Information on how to report suspected reprisal to the OIG is available at: <https://oig.justice.gov/hotline/>.

What is a whistleblower?

A whistleblower is an employee of a Federal contractor, subcontractor, or grantee who discloses information that the individual reasonably believes is evidence of:

- Gross mismanagement of a Federal contract or grant;
- A gross waste of Federal funds;
- An abuse of authority relating to a Federal contract or grant;
- A substantial and specific danger to public health or safety; or
- A violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

To whom must the disclosure be made to be protected?

To be protected under the NDAA, a disclosure regarding a DOJ contract, subcontract, or grant must be made to one of the following:

- A Member of Congress, or a representative of a committee of Congress;
- The OIG;
- The Government Accountability Office (GAO);
- A Federal employee responsible for contract or grant oversight or management at DOJ;
- An otherwise authorized official at DOJ or other law enforcement agency;
- A court or grand jury; or
- A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

(Disclosures involving classified information should be made in accordance with otherwise applicable laws, and individuals should consult with the OIG to ensure that such disclosures are made appropriately).

What can I do if I believe retaliation has occurred?

Employees of contractors, subcontractors, or grantees may file a complaint under the NDAA with the OIG, which will investigate the matter unless the OIG determines that the complaint is frivolous, fails to allege a violation of the prohibition against whistleblower reprisal, or has been addressed in another proceeding. If the OIG finds that retaliation has occurred, it can recommend that the Department order the contractor, subcontractor, or grantee, to take remedial action, such as reinstatement or back pay.

Also, if you are an employee of DOJ or of a DOJ contractor, subcontractor, or grantee and you suspect that a personnel action or an action affecting access to classified information has been taken against you in reprisal for making a disclosure of wrongdoing, you may report it to the OIG.

Nothing in a non-disclosure agreement should be interpreted as limiting your ability to provide information to the OIG.

For further information about whistleblower rights and protections, please see the Whistleblower Protection page on the OIG's website at: <https://oig.justice.gov/hotline/whistleblower-protection.htm>

Note: The OIG does not have authority to investigate EEO complaints. For such matters, please refer to the [DOJ Equal Employment Opportunity Office](https://justice.gov/jmd/eeos), website <https://justice.gov/jmd/eeos>. If you wish to make a whistleblower disclosure or report reprisal for doing so outside DOJ, you may contact the [U.S. Office of Special Counsel](https://osc.gov), website <https://osc.gov>.

How can I report wrongdoing to DOJ OIG?

If you know about waste, fraud, abuse, misconduct, or whistleblower reprisal relating to a Department of Justice (DOJ) employee, program, contract, or grant you may report it to the OIG through the following:

Website: <https://oig.justice.gov/hotline>

Hotline: (800) 869-4499

Fax: (202) 616-9881

Mailing Address:

U.S. Department of Justice
Office of the Inspector General
Inspections Division
1425 New York Avenue, N.W.
Suite 7100
Washington, D.C. 20530-2001

From: Laura Waxman
To: [Cownie, Frank](#)
Subject: Information for June 19 Meeting of the U.S. Conference of Mayors Criminal and Social Justice Committee Meeting
Date: Saturday, June 13, 2015 3:58:04 PM
Attachments: [CSJ agenda.pdf](#)
[CSJ Resolution Briefing Materials.pdf](#)

The Committee will meet on Friday, June 19 from 3:30-4:30 PM during the Conference's 83rd Annual Meeting in San Francisco. The Committee meeting will be held in Golden Gate 2-3 on the Lobby Level of the Hilton San Francisco Union Square. Attached are the agenda for the session and briefing materials on the resolutions submitted for consideration by the Committee.

Please feel free to contact me if you need any additional information on any of this. I look forward to seeing you in San Francisco.
Laura

--

Laura DeKoven Waxman
Director of Public Safety
The U.S. Conference of Mayors
1620 Eye Street, NW
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URL: www.usmayors.org/uscm

CRIMINAL AND SOCIAL JUSTICE COMMITTEE

June 19, 2015

**Golden Gate 2-3, Lobby Level
Hilton San Francisco Union Square**

AGENDA

3:30 PM

CALL TO ORDER, INTRODUCTIONS

ANNISE D. PARKER

Mayor of Houston

Chair

CONSIDERATION OF SUBMITTED RESOLUTIONS

#20 In Support of Recommendations to Strengthen Police-Community Relations

#21 Body-Worn Cameras

#22 In Support of The My Brother's Keeper Initiative

#23 My Brother's Keeper

#35 Supporting Federal Fair Chance Hiring

#24 Resolution Supporting Common Sense Gun Laws that Protect Victims of Domestic Violence and Opposing Firearms Legislation that Threatens Public Safety

#25 Combating Commercial Sexual Exploitation Through Comprehensive Demand Enforcement And Prevention

#26 Reforming Federal Civil Asset Forfeiture

#27 Combatting Violent Extremism in the United States

#28 In Support of FEMA Grants for Firefighters

#17 Supporting the Reauthorization and Revision of The National Flood Insurance Program

#29 Aligning Federal Policy On Floodplain Management, Climate Change, And Sustainable Communities

#30 To Commemorate the 25th Anniversary of the Americans with Disabilities Act

#31 A Resolution Supporting House of Representatives Bill 241, Amending the Americans with Disabilities Act of 1990 to Establish Condition Precedents to Civil Action

#32 Supporting the White House Task Force on New Americans Recommendations

#33 Citizenship Now

#34 Immigrant Heritage Month 2015

CONSIDERATION OF NEW RESOLUTIONS

REMARKS

Update on FirstNet

ANNISE D. PARKER

Mayor of Houston

Member, FirstNet Board

Countering Violent Extremism

GEORGE SELIM

Director for National Security Affairs Community Partnerships

The White House

OTHER BUSINESS

4:30 PM

ADJOURN



THE UNITED STATES CONFERENCE OF MAYORS

1620 EYE STREET, NORTHWEST
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CRIMINAL AND SOCIAL JUSTICE COMMITTEE

Briefing Materials on Proposed Resolutions

June 2015

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SUMMARY OF RESOLUTIONS

Resolution No. 20: In Support Of Recommendations To Strengthen Police-Community

Relations adopts as policy the recommendations of the Conference's Working Group of Mayors and Police Chiefs, calls for implementation of the recommendations of the President's Task Force on 21st Century and the Conference's Working Group of Mayors and Police Chiefs, calls upon mayors to continue working with law enforcement and the public to review community-policing procedures and to implement the recommendations included in the Task Force's Report; calls on the Justice Department to implement the recommendations directed at its agencies in the Task Force report; calls on the President to request and the Congress to provide the funding needed by the Justice Department and local police departments to implement the report's recommendations; and urges the Congress to increase federal funding for both new and existing Justice Department programs, including COPS Hiring and Community Policing Development grants and smart policing technology research and grants.

Resolution No. 21: Body-Worn Cameras: states that body-worn cameras can be an important tool, that the decision to deploy them must be a local one, and that police departments need federal assistance in purchasing cameras, providing training in and establishing standards for their use, and appropriately storing data collected via cameras; calls on Congress to provide at a minimum the funding requested by the President for the Body-Worn Camera Partnership Program; and calls for increased federal funding for research into the impact of body-worn cameras and for the development of body-worn camera technology.

Resolution No. 22: In Support of the My Brother's Keeper Initiative commends the Administration, mayors and other acceptors of the MBK Community Challenge, and the Administration's MBK Task Force for its continuous engagement with public and private stakeholders; urges the Administration to continue advancing the goals outlined by the Task Force through federal policy, funding, and program alignment; and states that mayors will continue the critical work of the MBK Initiative, in partnership with Administration and the MBK Alliance, to enhance opportunities and outcomes for boys and young men of color.

Resolution No. 23: My Brother's Keeper commends the President and his Administration for the establishment and implementation of the MBK initiative and its substantial efforts to involve cities across the nation and provide resources to them to carry out its purposes; and pledges that the Conference will continue to work through its MBK Task Force with the Obama Administration on its efforts to bolster opportunity for boys and young men of color in cities nationwide and with the MBK Alliance to help assure its resources are made available to cities to support their activities relating to achieving the six MBK focus areas.

Resolution No. 35: Supporting Federal Fair Chance Hiring urges executive action to ensure that both federal agencies and federal contractors are leading the way to open up employment opportunities for qualified job-seekers who have an arrest or conviction in their past.

Resolution No. 24: Resolution Supporting Common Sense Gun Laws that Protect Victims of Domestic Violence and Opposing Firearms Legislation that Threatens

Public Safety supports laws that prohibit persons convicted of domestic violence crimes or subject to final domestic violence restraining orders from acquiring or possessing firearms and that require such domestic abusers to turn in firearms they already own and urges that states lacking such laws to enact

them promptly; opposes legislation that would threaten women's lives by facilitating the acquisition and possession of firearms by dangerous domestic abusers; recognizes that mayors and local law enforcement are best positioned to adopt reasonable firearm regulations tailored to local conditions, and that laws imposing punitive penalties on or authorizing lawsuits against local officials who seek to reduce gun violence threaten public safety; and opposes state firearm preemption laws that encourage lawsuits against local officials who seek to reduce gun violence and that require local taxpayers to bear the costs of such litigation.

Resolution No. 25: Combating Commercial Sexual Exploitation Through Comprehensive Demand Enforcement And Prevention reaffirms existing policy on combating commercial sexual exploitation; commends Congress for passing the Justice for Victims of Trafficking Act; states that the Conference will work with the Administration and Congress to combat commercial sexual exploitation of children and vulnerable adults, and mitigate the associated public safety, economic, and health risks to cities; calls on Congress and the White House to continue to fund local initiatives to stop human trafficking and its related harms; states that all anti-trafficking strategies should be survivor-informed while providing exit strategies and options for prostituted individuals and that all anti-trafficking strategies should focus on holding both sex buyers and pimps accountable; urges the Administration to incorporate demand reduction as a prevention strategy in the Federal Strategic Action Plan on Services for Victims of Trafficking; urges the Administration and Congress to fully commit the resources needed to implement all of the provisions of the Justice for Victims of Trafficking Act; urges that training and resources be available to local governments and the criminal justice system to stop and deter sex buyers; encourages research projects evaluating the effectiveness of demand-related programs and activities; urges the development and implementation of age-appropriate prevention and education programs about the risks and harms of the commercial sex industry and anti-demand messaging; and states that Conference members should hold themselves and their employees to the highest ethical standards and promote a shift in the culture of tolerance toward purchasing a human being for sex.

Resolution No. 26: Reforming Federal Civil Asset Forfeiture calls for reform of the civil asset forfeiture system, but opposes the end of the Equitable Sharing Program; supports the reforms jointly proposed by major law enforcement groups which are intended to help provide clarity and higher accountability while also ensuring the ability for law enforcement to impact criminal enterprises; and calls for joining with major law enforcement organizations in calling on the Department of Justice to promulgate formal regulations that will establish clear and specific requirements for all law enforcement agencies in the United States who apply for Federal civil asset forfeiture.

Resolution No. 27: Combatting Violent Extremism in the United States applauds the Administration's recognition that local officials and law enforcement are critical to the nation's efforts to preventing terrorist acts within the United States and urges the Administration to expand its efforts to work with local officials to prevent domestic terrorism and reduce violent extremism; registers s strong opposition to consolidating the current suite of homeland security grant programs into a single National Preparedness Grant Program and instead calls for increased funding for these programs to strengthen the ability of local officials to prevent violent extremism; and calls for expansion of Justice Department grant programs, including COPS Hiring Grants, which can contribute to this mission.

Resolution No. 28: In Support Of FEMA Grants For Firefighters reaffirms the Conference's support for the AFG, SAFER, and FP&S grant programs and urges Congress in FY 2016 to prioritize public safety and increase funding for these programs.

Resolution No. 17: Supporting The Reauthorization And Revision Of The National Flood Insurance Program calls on Congress to reauthorize the National Flood Insurance Program and address program fraud and waste, regional variations and mitigation needs, and affordability.

Resolution No. 29: Aligning Federal Policy On Floodplain Management, Climate Change, And Sustainable Communities urges the President to expressly align federal policy on floodplain management, regulations implementing the National Flood Insurance Program, and the National Objectives, Principles, and Standards for Water and Related Resources, with the Administration's policy initiatives on Climate Change and Sustainable Communities; and opposes the adoption of federal policies that would disinvest in existing urbanized areas within floodplains, and calls for modernization of the AR and A99 Special Flood Hazard Zones under the National Flood Insurance Program consistent with specified principles.

Resolution No. 30: To Commemorate the 25th Anniversary of the Americans With Disabilities Act supports ADA25 and urges all cities to work with civic and disability partners to inspire action with commitments and legacies that fulfill the ADA's promise of equal opportunity, full participation, independent living and economic self-sufficiency of people with disabilities.

Resolution No. 31: A Resolution Supporting House of Representatives Bill 241, Amending The Americans With Disabilities Act of 1990 to Establish Condition Precedents to Civil Action supports enactment of HR 241 as the first step to stopping frivolous, fraudulent and unnecessarily burdensome litigation against small business owners.

Resolution No. 32: Supporting the White House Task Force on New Americans Recommendations endorses the findings of the White House Task Force on New Americans; encourages philanthropic and corporate partners to invest in the nation's future workforce and join states and localities in creating welcoming places for New Americans to participate fully and contribute to the economic success of all; and calls on states and localities to support these efforts as part of implementation and planning for the new Workforce Innovation and Opportunity Act.

Resolution No. 33: Citizenship Now urges US Citizenship and Immigration Services and the Department of Homeland Security to make policy changes that will increase the number of U.S. citizens from the pool of eligible lawful permanent residents.

Resolution No. 34: Immigrant Heritage Month 2015 designates June 2015 as "Immigrant Heritage Month."

RESOLUTIONS AND BACKGROUND MATERIALS

Resolution No. 20

Submitted by:

The Honorable Karen Freeman-Wilson, Mayor of Gary
The Honorable Kevin Johnson, Mayor of Sacramento
The Honorable Stephanie Rawlings-Blake, Mayor of Baltimore
The Honorable Michael A. Nutter, Mayor of Philadelphia
The Honorable Annise D. Parker, Mayor of Houston
The Honorable Mark Stodola, Mayor of Little Rock
The Honorable Francis G. Slay, Mayor of St. Louis
The Honorable Shane Bemis, Mayor of Gresham
The Honorable Martin J. Walsh, Mayor of Boston
The Honorable Edwin M. Lee, Mayor of San Francisco
The Honorable Rahm Emanuel, Mayor of Chicago
The Honorable Paul Soglin, Mayor of Madison
The Honorable Marilyn Strickland, Mayor of Tacoma
The Honorable Pedro E. Segarra, Mayor of Hartford
The Honorable Mitch Landrieu, Mayor of New Orleans

IN SUPPORT OF RECOMMENDATIONS TO STRENGTHEN POLICE- COMMUNITY RELATIONS

1. **WHEREAS**, the events marked by Ferguson, Missouri on August 9, 2014 with the shooting of Michael Brown, an unarmed Black teenager, by a white police officer and which have been followed by other such officer-involved deaths in Staten Island, Tulsa County, North Charleston, Baltimore and other communities have brought to the forefront serious social issues that must be addressed such as issues of race, class, prejudice, poverty, and inequality that are often difficult for people to discuss openly and have underscored the complex nature of policing in communities across the country; and
2. **WHEREAS**, the tragic assassination of New York City police officers Rafael Ramos and Wenjian Liu December 20, 2014 while they sat in their squad car, by an individual who claimed retaliation for the deaths of Michael Brown and Eric Garner, and recent deaths by gunfire of other officers, including Liquori Tate and Benjamin Deen in Hattiesburg on May 9, further underscore the turmoil the nation is facing: and
3. **WHEREAS**, The United States Conference of Mayors President and Sacramento Mayor Kevin Johnson in November 2014 appointed a Working Group Of Mayors and Police Chiefs to develop a set of recommendations for local and national actions intended to improve police-community relations in America; and
4. **WHEREAS**, that Working Group developed the set of recommendations, organizing them into six areas: building police-community trust, improving police department practices, ensuring timely and accurate communications, conducting independent

investigations, addressing racial and economic disparities, and providing national leadership, and presented them to the mayors on January 22 during the Conference's Winter Meeting; and

5. **WHEREAS**, President Obama established the President's Task Force on 21st Century Policing by Executive Order in December 2014 and charged it with identifying best practices and making recommendations to the President on how policing practices can promote effective crime reduction while building public trust; and
6. **WHEREAS**, the President named Philadelphia Police Commissioner Charles Ramsey and George Mason Professor Laurie Robinson to chair the Task Force and COPS Office Director Ronald L. Davis to serve as its Executive Director, and gave the Task Force 90 days to issue a report; and
7. **WHEREAS**, under their leadership the Task Force held seven listening sessions around the country at which it received testimony and recommendations from several mayors and a wide range of community and faith leaders, law enforcement officers, academics, and others, and, in addition on January 22, the Task Force's leaders received the recommendations of Conference's Working Group of Mayors and Police Chiefs; and
8. **WHEREAS**, on March 2, 2015 the Task Force presented an Interim Report to the President which included 63 recommendations and numerous specific action items aimed at achieving them outlined under six pillars: Building Trust and Legitimacy, Policy and Oversight, Technology and Social Media, Community Policing and Crime Reduction, Training and Education, and Officer Wellness and Safety, plus two overarching recommendations that call for Presidential support and funding for the creation of a National Crime and Justice Task Force to review and evaluate all components of the criminal justice system and develop recommendations for comprehensive criminal justice reform; and Presidential promotion of programs with a comprehensive and inclusive look at community-based initiatives that address poverty, education, health, and safety; and
9. **WHEREAS**, included among the Task Force's recommendations were many of those contained in the report of the Conference's Working Group of Mayors and Police Chiefs; and
10. **WHEREAS**, upon receipt of the report President Obama directed the Department of Justice to begin implementing those recommendations that were within its purview and called for expansion of the COPS program to provide incentives to local communities to implement the best practices and recommendations included in the report,
11. **NOW, THEREFORE, BE IT RESOLVED**, that The United States Conference of Mayors adopts as policy the recommendations of its Working Group of Mayors and Police Chiefs; and
12. **BE IT FURTHER RESOLVED**, The United States Conference of Mayors commends President Obama, the Department of Justice and its COPS Office, and the leadership and

members of the President's Task Force on 21st Century Policing for their quick and comprehensive response to an urgent matter which the nation faces and for their thorough engagement of mayors and police chiefs throughout the process; and

13. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors calls for the swift and full implementation of the recommendations made by the President's Task Force on 21st Century Policing in the Report and the Conference's Working Group of Mayors and Police Chiefs; and
14. **BE IT FURTHER RESOLVED**, The United States Conference of Mayors calls upon mayors to continue working in partnership with law enforcement and the public to review community-policing procedures and to implement the recommendations included in the Task Force's Report; and
15. **BE IT FURTHER RESOLVED**, The United States Conference of Mayors calls on the U.S. Department of Justice, its various agencies and its COPS Office in particular, to implement the recommendations directed at them in the President's Task Force report; and
16. **BE IT FURTHER RESOLVED**, The United States Conference of Mayors calls on the President to request and the Congress to provide the funding needed by the Department of Justice and local police departments to implement the report's recommendations; and
17. **BE IT FURTHER RESOLVED**, The United States Conference of Mayors strongly urges the Congress to increase federal funding for both new and existing Justice Department programs, including COPS Hiring and Community Policing Development grants and smart policing technology research and grants, that support best practices and local efforts to improve relationships between the police and the public to aid in building trust in cities nationwide.

Projected Cost: Unknown

STRENGTHENING POLICE-COMMUNITY RELATIONS IN AMERICA'S CITIES

A Report of The U.S. Conference of Mayors Working Group of Mayors and Police Chiefs

January 22, 2015

The events which began in Ferguson, Missouri on August 9, 2014 with the shooting of Michael Brown, an unarmed Black teenager, by a White police officer have brought to the forefront serious social issues that must be addressed – issues of race, class, prejudice, poverty, and inequality that are often difficult for people to talk about. These issues also underscore the complex nature of policing in communities across the country.

The decision of a St. Louis County grand jury not to indict the police officer responsible for Brown's death compounded these issues, as did a similar verdict by a Staten Island, New York grand jury that declined to indict a White police officer in the death of Eric Garner, a Black man accused of selling cigarettes individually on the street, by an apparent chokehold. The tragic assassination of New York City police officers Rafael Ramos and Wenjian Liu on December 20 while they sat in their squad car, by an individual who claimed retaliation for the deaths of Michael Brown and Eric Garner, underscored the turmoil the nation is facing. Police officers are beleaguered and on alert and feel persecuted while risking their lives on a daily basis. These events have shaken some of the public's perceptions of policing in America and of the criminal justice system. They have highlighted both the rift that may exist between police officers and the communities they serve and protect, and the danger which those officers face every day.

Mayors and police chiefs know full well that effective community policing is practiced in a constitutional manner by many police departments, and that the vast majority of police officers have developed trusting relationships with the communities they serve. But they also believe that this country cannot let the deaths of Michael Brown and Eric Garner or of other men and boys of color who have died in encounters with police officers, or of Rafael Ramos and Wenjian Liu or other officers who have lost their lives in the line of duty, to be lost in a set of statistics. They believe that the nation must learn from these painful experiences and do everything possible to prevent them from happening again.

This report, developed by a working group of mayors and police chiefs appointed by U.S. Conference of Mayors President and Sacramento Mayor Kevin Johnson, provides a set of recommendations for local and national actions intended to improve police-community relations in America. These recommendations emerged from discussions held by the Conference of Mayors leadership when it met in Sacramento in September and from further discussions held by mayors and police chiefs who met in Little Rock in October on the occasion of the 20th anniversary of the Community Oriented Policing Services (COPS) program.

The recommendations are grouped into six areas: building police-community trust, improving police department practices, ensuring timely and accurate communications, conducting independent investigations, addressing racial and economic disparities, and providing national leadership. In some instances, the recommendations go beyond the purview of mayors and police chiefs and call for actions by the broader community in cities and the nation as a whole, and by the federal government.

I. Building Trust Between Police and Community

Recent events have demonstrated that, despite instituting community policing in many departments and realizing substantial reductions in the crime rate in many cities, mistrust between the police and the communities they serve and protect continues to be a challenge that must be addressed.

- A. Community policing is a philosophy, not just a program.
 - 1. Police officers need to interact on a daily basis with the community to develop credibility and establish an on-going dialogue with residents, including those with whom they may disagree, to help keep incidents from becoming crises.
 - 2. Community policing must be much more than one officer forming a relationship; it involves making inroads in the most challenged communities.
 - 3. Police officers should treat all people with dignity and respect. Given the history of tension, police should be particularly sensitive to minority communities. If people feel disrespected in their encounters with officers, the experience will leave a long-lasting negative impact that will be shared with family and friends.
 - 4. The police should engage in problem-solving partnerships with the community.
 - 5. Police should work to establish trusting relationships with community residents that can be the foundation for working together in times of crisis.
- B. Police officers should practice procedural justice, treating all people fairly and openly.
- C. Police departments should provide a consistent message that the police have a responsibility to protect protestors and their constitutional rights.
- D. Police departments should provide a consistent message about police officers' responsibility to ensure their own safety and that of the community when they use force.
- E. Residents need to understand that police officers are doing their job, that it's a complicated job, and that they also deserve respect.
- F. Citizen academies and other educational programs can provide an effective way to educate residents on the responsibilities of police officers, and provide a forum for interacting with them.
- G. Community leaders should be actively engaged by the police and the city government as a whole in their efforts to build trust.
- H. It is important to recognize that there can be mixed feelings about the relationship that exists between the police and the communities they serve, and that mayors can play a critically important role in working to improve those relationships.

II. Improving Police Department Practices

Police departments, like all well-run organizations, should be reviewing their operations on a continuing basis and working to improve their procedures and practices. This effort should extend to all levels of the organization and to all areas of work. The International Association of Chiefs of Police, Major Cities Chiefs Police Association, the Police Executive Research Forum, and the COPS Office all have materials available, some of which provide model policies that can assist departments in doing this. Recent events have highlighted some areas of particular importance. Among them: the role of the chief, recruitment, training, supervision, use of equipment, and how progress is measured.

- A. The Role of the Chief

1. The chief's leadership, direction, focus and credibility are critical to the department's success and to how it is viewed by the community.
 2. It is generally appropriate for the chief to take the lead, independent of the mayor, when serious incidents occur.
 3. The chief should be skilled in providing leadership in a crisis.
 4. The chief should be aware of resources and help available.
- B. Officer Recruitment
1. Police departments need to review recruiting and hiring practices to ensure they are reflective of the community they serve.
 2. Departments may need to use non-traditional means to attract recruits who are representative of the diversity in the community.
 3. At the same time, departments need to perform thorough background checks on all applicants to help ensure that those who are accepted will become good police officers.
- C. Officer Training and Supervision
1. Training should cover more than the procedures of policing. It should help police officers understand their role in a democratic society – how to engage in constitutional policing.
 2. Training must concentrate on preventing unwarranted use of force, offer officers alternatives to the use of lethal weapons, and clarify when use of lethal weapons is appropriate.
 3. Training also must concentrate on community engagement and must reinforce the importance of treating residents with dignity and respect.
 4. Officers must be trained in how to defuse incidents.
 5. Police officer training also must include methods for handling individuals exhibiting mental illness.
 6. People from outside of the department, including the clergy, should provide at least some of the training.
- D. Equipment
1. Many departments already have appropriate standards for the deployment of, and training related to, military and other equipment provided by the federal government to local police departments. These standards should be in place in all departments that have such equipment.
 2. Body-worn cameras can be an important tool, and funding to assist in purchasing cameras, providing training in and standards for their use, and appropriately storing data collected via cameras is essential if more departments are to be camera-equipped.
 3. Also important is other technology, including vehicle-mounted cameras, license plate readers, and facial recognition software. Here again, additional resources must be provided to police departments to enable their use.
- E. Metrics
1. Changes are needed in the way police departments measure the efficacy of their activities. The measurement system should reflect the community policing culture and importance of prevention so that success is not based solely on rates of reported crimes and arrests.

2. Research into how to make these changes is needed. It should include evaluation of current measurement tools and development of a new measurement system that can be used by departments across the nation.

III. Ensuring Timely and Accurate Communications

How a police department communicates with the public and the media is crucial to the success of its relationship with the community, especially when officer-involved shootings and other high profile incidents, such as demonstrations or significant crimes, occur.

- A. Departments should have procedures in place to ensure that communications will be timely, transparent, honest, and as accurate as possible.
- B. It is important to take into account optics – how things look.
- C. Departments should understand, monitor, and make use of social media.
- D. The mayor and police chief should coordinate their communications around an incident. They should:
 1. Identify when the police chief should handle the incident and when the mayor needs to be involved;
 2. Identify appropriate roles for each;
 3. Deliver a unified message, keeping individual perspectives consistent with that message.
- E. The mayor and chief should develop a network of organizations with which they can communicate when an incident occurs – organizations that will be helpful in assuring the community that any incident will be appropriately investigated and addressed.

IV. Conducting Independent Investigations of Deaths Relating to Police Encounters

Recent events have heightened the importance of conducting independent, transparent, and thorough investigations so that, when an incident involving a police officer occurs, the affected community and the public are confident that all of the facts will be examined and a just decision made. This applies to both departmental and prosecutorial investigations. Investigations are dependent on state laws and regulations, and some prosecutors are required to rule on use of deadly force.

- A. To increase public confidence, police departments should call on independent or outside investigators and agencies when a death occurs during an encounter with an officer. While the exercise of deadly force by an officer does not necessarily constitute a federal crime, federal authorities should be available to any city needing additional help to ensure consistent, independent and transparent investigations of deaths that occur during an encounter with a police officer.
- B. There should be a vehicle to conduct independent investigations of police officer deaths, just as the National Institute for Occupational Safety and Health (NIOSH) does for firefighter deaths.

V. Addressing Racial and Economic Disparities and Community Frustration with and Distrust of Governmental Institutions

Many of the fault lines exposed by the events in Ferguson and elsewhere stem from basic problems of racism and inequality that, sadly, still exist in this country. Reducing

community frustration with and distrust of the police and other governmental institutions requires a complex set of actions (some of which are specified elsewhere in this document). This cannot be fully accomplished, however, unless the nation adequately addresses the problems and inequality experienced primarily by young men and boys of color and undertakes a conscious effort to reduce racism and discrimination. Additional federal resources must be provided if this is to be accomplished. Mayors and police chiefs are encouraged, to the extent possible, to:

- A. Employ best practices associated with the six goals of the My Brothers' Keeper initiative, ensuring that all:
 - 1. Children enter school cognitively, physically, socially and emotionally ready;
 - 2. Children read at grade level by 3rd grade;
 - 3. Youth graduate from high school;
 - 4. Youth complete post-secondary education or training;
 - 5. Youth out of school are employed; and
 - 6. Youth remain safe from violent crime;
- B. Utilize techniques such as study circles, community dialogues, and town hall meetings to hear from community residents, engage them in police department and other city activities, and build trust between them and institutions of government;
- C. Ensure that local human rights and human relations commissions are functioning in communities and are focused in part on police-community relations;
- D. Connect with state human rights commissions to determine whether a statewide plan/approach is feasible;
- E. Implement the action steps called for in the Conference's U.S. Coalition of Cities Against Racism and Discrimination, which has been adopted by more than 100 cities.
- F. Concerted efforts must be made to change the dynamics of the anger focused on, and the fear of cooperating with, law enforcement that too often exist in communities. The police clearly have a role to play, along with the full range of public and private agencies, in neighborhood improvement efforts.

VI. Providing National Leadership

Ensuring police protection is primarily a local responsibility in the United States. Municipalities account for 47 percent of the nation's expenditures on police protection and employ 48 percent of the nation's police personnel. National action is important, however, to ensure that mayors and police chiefs are able to work together to solve common problems, share promising approaches, and influence the development of national policy. The federal government has a key role to play in supporting these efforts with both financial and technical resources.

- A. Mayors and police chiefs should work together on an ongoing basis through the U.S. Conference of Mayors and police chief organizations to:
 - 1. Examine and develop recommendations relating to national issues and problems;
 - 2. Promote mayor-police chief partnerships;
 - 3. Provide guidance to mayors and chiefs for use in their cities when events occur.

- B. The federal government should provide sensitivity, cultural, and ethnicity training, as well as training in how to defuse incidents, through the Justice Department's Community Relations Service and other appropriate federal agencies.
- C. The federal government must increase its financial support to local police departments that can be used for hiring officers, providing them needed training and equipment, and improving practices.

WORKING GROUP OF MAYORS AND POLICE CHIEFS

Chair: Mayor Karen Freeman-Wilson, Gary

Member Mayors:

Mayor Shane Bemis, Gresham
Mayor Mitch Landrieu, New Orleans
Mayor Michael Nutter, Philadelphia
Mayor Annise Parker, Houston
Mayor Stephanie Rawlings-Blake, Baltimore
Mayor Francis Slay, St. Louis
Mayor Mark Stodola, Little Rock

Member Chiefs:

Commissioner Anthony Batts, Baltimore
Chief Kenton Buckner, Little Rock
Chief Chris Burbank, Salt Lake City
Martha Montalvo, Executive Assistant Chief and Chief of Staff, Houston
Commissioner Charles Ramsey, Philadelphia
Chief Sam Somers, Sacramento
Chief Yost Zakhary, Woodway, TX

May 18, 2015

FACT SHEET: Creating Opportunity for All Through Stronger, Safer Communities

President Obama believes that in America everyone should be empowered by the country they call home, not limited by the zip code into which they are born. That's why the President's agenda is focused on expanding opportunity for all: restoring economic security to hard-hit American families; building stronger neighborhoods and communities; and ensuring young people have the opportunity to reach their full potential.

Today, in Camden, New Jersey, the President will highlight innovative steps taken by a city that has struggled with one of the nation's highest violent crime rates to create economic opportunity, help police do their jobs more safely, and reduce crime in the process. Changes include increasing the number of police officer boots on the ground and changing the way their officers interact with the community. The Camden County Police Department has instituted a community policing initiative, and just last month, the city accepted the **My Brother's Keeper Community Challenge** and was separately designated as a **Promise Zone**, representing the culmination of five years of collaborative efforts aimed at improving the quality of life for Camden children, youth, and families.

The President will also highlight how communities are adopting the recommendations of the Task Force on 21st Century Policing and will highlight new tools all cities can utilize to build and maintain the all-important trust between the law enforcement officers who put their lives on the line every day, and the communities they have sworn to serve and protect. These tools include:

- **A Blueprint for Improved Community Policing:** The final Task Force Report provides a blueprint for cities and towns to utilize as they develop policing strategies that work best for building trust between law enforcement and the communities they serve while enhancing public safety.
- **The White House Police Data Initiative:** Leading jurisdictions have joined technologists, community organizations and police associations to commit to use data and technology in ways that build community trust and reduce unnecessary uses of force.
- **Community Policing Grants:** The Department of Justice (DOJ) will begin taking applications for grants designed to advance the practice of community policing in law enforcement agencies through hiring, training and technical assistance, the development of innovative community policing strategies, applied research, guidebooks, and best practices that are national in scope.

- **A Body-Worn Camera Tool Kit:** Earlier this month, the DOJ announced a new pilot grant program that will help local law enforcement agencies develop, implement, and evaluate body-worn camera programs, and today, DOJ is releasing an online clearinghouse of resources designed to help law enforcement professionals and the communities they serve plan and implement body-worn camera (BWC) programs.
- **Partnerships with National Law Enforcement Focused Organizations to Implement Recommendations:** With support from the Department of Justice, nine law enforcement-focused organizations will develop national-level, industry-wide projects for several of the pillars outlined in the Task Force Report.
- **Equipment Working Group Final Report:** A federal interagency working group—led by the Departments of Justice, Defense, and Homeland Security – has now completed an extensive review of federal programs that support the acquisition of equipment by state, local and tribal law enforcement agencies. On the basis of that review, the working group developed a series of concrete steps to enhance accountability, increase transparency, and better serve the needs of law enforcement and local communities.

In addition, over the next few weeks, members of the President’s Cabinet will be traveling across the country to lift up best practices and highlight other cities where local leaders are partnering with federal agencies, foundations, private sector partners, and police departments to improve the quality of life in their communities on issues from healthcare to education to transparency in policing. Secretary Castro will visit Fullerton, CA, Kansas City, and St. Louis; Secretary Duncan will travel to Philadelphia; Secretary Foxx will travel to Charlotte; Secretary Perez will travel to Minneapolis, New Haven, and Pittsburgh; and Secretary Vilsack will travel to Memphis.

Additionally, Attorney General Lynch will travel to Cincinnati as part of a national Community Policing tour that will highlight collaborative programs and innovative policing practices designed to advance public safety, strengthen police-community relations, and foster mutual trust and respect. The tour will build on President Obama’s commitment to engage with law enforcement, local leaders, young people and other members of the community to implement key recommendations from the 21st Century Policing Task Force report.

The administration is deeply engaged with these communities and others across the country, showing what can be achieved when people from all walks of life come together to expand opportunity for all Americans.

The Task Force on 21st Century Policing

Last December, President Barack Obama created the Task Force on 21st Century Policing with a mission to identify best practices and make recommendations on how such practices can promote effective crime reduction while building public trust. The Task Force was chaired by Philadelphia Police Commissioner Charles H. Ramsey and George Mason University Professor Laurie Robinson and included, among others, law enforcement representatives, community leaders, academics, and youth leaders. Over several months, the Task Force held public hearings across the country; took testimony from over 100 witnesses; reviewed hundreds of written submissions and thoughtfully came to consensus on 59 concrete recommendations. The Task Force presented their interim report, including recommendations regarding policies, training, transparency, accountability, technology and officer safety and wellness, to the President in March, and today the final report is available [HERE](#).

White House Police Data Initiative: Using Data and Technology to Build Community Trust

The Task Force Report emphasized the importance of data and technology in helping local law enforcement agencies excel in their work and build community trust. Even when local law enforcement agencies are willing to explore new ways to use and release such data, there are often technical and other impediments to doing so. To break down barriers, the White House, with assistance from foundations like the Laura & John Arnold Foundation, launched the Police Data Initiative (PDI) with police chiefs and municipal Chief Technology Officers from sixteen jurisdictions that we expect to be leaders in this space. Since the launch, five additional jurisdictions joined the effort. As part of the initiative, these jurisdictions are working alongside technologists, community organizations and police associations to implement multiple commitments to action that leverage open data to increase transparency and build community trust, better utilize early warning systems to identify problems, increase internal accountability, and decrease inappropriate uses of force. More information about the White House Police Data Initiative is available [HERE](#).

Jurisdictions taking part in the White House Police Data Initiative (PDI) so far include: Atlanta, GA; Austin, TX; Camden, NJ; Charlotte-Mecklenburg, NC; Cincinnati, OH; Columbia, SC; Dallas, TX; Hampton, VA; Indianapolis, IN; Knoxville, TN; Los Angeles, CA; LA County, CA; Louisville, KY; Montgomery County, MD; New Orleans, LA; Newport News, VA; Oakland, CA; Philadelphia, PA; Richmond, CA; Rutland, VT; and Seattle, WA. Below are some highlights of the work these police departments are taking with other PDI participants:

Open Data to Build Transparency and Increase Community Trust

- Twenty-one jurisdictions committed to release a combined total of 101 data sets that have not been released to the public. The types of data include uses of force, police pedestrian and vehicle stops, citations, officer involved shootings and more, helping the communities gain visibility into key information on police/citizen encounters.
- Code for America and CI Technologies will work together to build an open source software tool to make it easier for more than 500 U.S. law enforcement agencies using IA Pro police integrity software to extract and open up data.
- To make police open data easy to find and use, the Police Foundation and ESRI will build a non-exclusive police open data portal to serve as a central clearinghouse option for police open data, making it easily accessible to community groups and researchers to analyze and see trends.
- To help this newly released data come alive for communities through mapping, visualizations and other tools, city leaders, non-profit organizations, and private sector partners will host open data hackathons in cities around the country.
- The Charlotte-Mecklenburg Police Department is working with the Southern Coalition for Social Justice to use open data to provide a full picture of key policing activities, including stops, searches and use-of-force trends, information and demographics on neighborhoods patrolled, and more. This partnership will build on a website and tools already developed by the Southern Coalition for Justice which provide visualization and search tools to make this data easily accessible and understandable.
- Presidential Innovation Fellows, through the U.S. CTO and U.S. Chief Data Scientist will release an Open Data Playbook that police departments can use as a reference for open data best practices and case studies.

- The International Association of Chiefs of Police, the Police Foundation, and Code for America have committed to help grow communities of practice for law enforcement agencies and technologists around open data and transparency around police/community interactions.

Early Warning Systems and Data Research

- While many police departments have systems in place, often called “early warning systems”, to identify officers who may be having challenges in their interactions with the public and link them with training, there has been little research to determine which indicators are most closely linked to bad outcomes. To tackle this issue, twelve police departments have committed to share data on police/citizen encounters with data scientists for in-depth data analysis, strengthening the ability of police to intervene early and effectively: Austin, TX; Camden, NJ; Charlotte, NC; Dallas, TX; Indianapolis, IN; Knoxville, TN; LA City; LA County; Louisville, KY; New Orleans, LA; Philadelphia, PA and Richmond, CA.
- The University of Chicago will provide a team of five data science fellows from the Eric and Wendy Schmidt Data Science for Social Good program to work with 3-4 police departments over a 14 week engagement, starting in late May to begin to prototype data analysis tools that will help police departments identify the behaviors most indicative of later problems.
- Today in Camden, NJ, the city will welcome a Police Data Initiative Tech Team. This volunteer team of technology experts and data scientists will spend two days with Camden PD. They will focus on key technology systems with a goal of helping the Camden police enhance analysis and gain greater insights on officer activity. The goal is for the Camden PD to begin developing the solutions that surface potential problems before they happen while pointing to best practices that other departments can follow.

Body-Worn Camera Initiative: Identifying Most Effective Practices for Body-Worn Camera Use

The Task Force recommended steps the federal government could take to encourage adoption of body-worn cameras (BWC), while also noting that such cameras pose privacy and implementation challenges. Earlier this month, DOJ announced a \$20 million Body-Worn Camera Pilot Partnership Program designed to respond to the immediate needs of local and tribal law enforcement organizations. Today, DOJ’s Office of Justice Programs’ Bureau of Justice Assistance launched the **National Body-Worn Camera Toolkit**, an online clearinghouse of resources designed to help law enforcement professionals and the communities they serve plan and implement BWC programs. The toolkit consolidates and translates research, promising practices, templates and tools that have been developed by subject matter experts. Areas of focus include procurement; training; implementation; retention and policies along with interests of prosecutors, defense attorneys, victim and privacy advocates and community members.

Community Policing Grants: Helping Communities Implement Innovative Policing Strategies

The Task Force recommended that DOJ, through the Office of Community Oriented Policing Services (COPS Office) provide incentives for state and local law enforcement to adopt the recommendations. **Today**, the COPS office will launch solicitations for grants and technical assistance that are closely aligned with the recommendations. Funding is available for local law enforcement agencies committed to implementing the recommendations and to adopting

policies that build community trust, including through hiring, training, initiating pilot projects, and developing new guidance and best practices. Grants will be awarded this fall. For further information about how the COPS office is supporting for implementation of the Task Force recommendations click [HERE](#).

Partnering with National Law Enforcement Organizations to Implement Recommendations

With support from the COPS Office, law enforcement focused organizations including the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, Major Cities Chiefs Association, the Police Executive Research Forum, the National Sheriffs' Association, Major County Sheriffs, the National Law Enforcement Officers Memorial Fund, the U.S. Conference of Mayors and the Police Foundation, will develop national-level, industry-wide projects for several of the pillars outlined in the Task Force Report. Supported activities will range from the creation of positive and meaningful engagement opportunities between law enforcement and youth, identification of best practices for engaging the community in the mutual responsibility of public safety, exploration of the circumstances and causality behind documented line-of-duty injuries, and promotion of officer safety and well-being.

The Major Cities Chiefs Association will also be partnering with the COPS Office to host three roundtable convenings of member chiefs to discuss the implementation of selected recommendations from the Task Force Report. The discussions will explore experiences and lessons from agencies that may have implemented some of the recommendations, including associated challenges, and the role of senior leaders making the changes called for in the Task Force Report. Key ideas from the discussion will be captured and shared with the field through a report on the discussions. The first roundtable will take place in Nashville, Tennessee in June.

In addition, the International Association of Chiefs of Police has committed to building a National Center for Community-Police Relations (NCCPR) which will provide support to any local law enforcement agencies that wish to address the issues raised in the Task Force Report. Support will include: providing educational materials that will break down the Task Force recommendations for all levels of officer; on-site culture assessments to determine the strengths and weaknesses of local agencies relating to the report's six pillars; using the train-the-trainer model to create a national cadre of local agency officers who can train others on recommendation implementation; and leader-to-leader mentoring to allow leaders who have successfully implemented recommendations to work with those desiring to do so.

Helping Police Get People Needed Services

Since 2011, the Ford Foundation, with other foundations, has supported Law Enforcement Assisted Diversion (LEAD) in Seattle, an innovative arrest diversion program co-designed by police, prosecutors, public defenders, civil rights leaders and public health experts. This evidence-based program lets law enforcement officers directly divert people, whom they could arrest for low-level crimes, such as drug or prostitution offenses, to case managers, who assist with housing, treatment and other supportive services, instead of using jail and prosecution. An evaluation by the University of Washington, funded by the Arnold Foundation and released in March 2015, found that participants in the program had 58% lower odds of a subsequent arrest as compared to a control group. Equally important, it helps

improve the relationship between the police and the people they encounter on the streets. Consistent with the Task Force recommendation that law enforcement agencies “emphasize . . . alternatives to arrest or summons in situations where appropriate,” the Ford Foundation plans to work with other foundations to provide technical assistance to jurisdictions around the country planning to implement LEAD. Over 30 jurisdictions nationally have expressed interest and will be invited to a convening to be hosted by The White House and the Ford Foundation in July.

Equipment Working Group Final Report

In addition to the work completed by the Task Force on 21st Century Policing, a separate federal interagency working group—led by the Departments of Justice, Defense and Homeland Security – has now completed an extensive review of federal programs that support the transfer of equipment to state, local and tribal law enforcement agencies. On the basis of that review, the working group developed a series of concrete steps to enhance accountability, increase transparency, and better serve the needs of law enforcement and local communities. The President has directed departments and agencies to put the working group’s recommendations into practice and continue to partner with law enforcement and local communities during the implementation process. The working group report is available [HERE](#).

- The working group developed a unified list of prohibited equipment that may not be acquired under any of the various programs. This list includes tracked armored vehicles, weaponized aircraft and vehicles, bayonets, grenade launchers, and large-caliber firearms.
- The working group developed a unified list of equipment that law enforcement may acquire only in accordance with new and more rigorous controls. This controlled list includes armored vehicles, tactical vehicles, riot gear, and specialized firearms and ammunition.
- **Uniform Acquisition Standards:** Across all programs, the transfer of equipment on the controlled list will require the consent of the appropriate local civilian governing body (e.g., City Council, County Council, Mayor) as well as a clear and persuasive explanation of the need for the equipment and the appropriate law enforcement purpose that it will serve.
- **Training and Protocols:** To receive such equipment, law enforcement agencies must commit to have in place “general policing” training standards, including training on community policing, constitutional policing, and community impact. Agencies must also agree to protocols on the appropriate use, supervision, and operation of such equipment.
- **Required Data Collection:** Law enforcement agencies must collect and retain certain information whenever such equipment is involved in a “significant incident.” Upon request or during a compliance review, the law enforcement agency must provide this information to the federal agency that supported the equipment’s acquisition. This information will also be made publicly available in accordance with the law enforcement agency’s applicable policies and protocols.

Resolution No. 21

Submitted by:

The Honorable Stephanie Rawlings-Blake, Mayor of Baltimore
The Honorable Eric Garcetti, Mayor of Los Angeles
The Honorable Stephen K. Benjamin, Mayor of Columbia, SC
The Honorable Michael A. Nutter, Mayor of Philadelphia

BODY-WORN CAMERAS

1. **WHEREAS**, The United States Conference of Mayors Working Group of Mayors and Police Chiefs found that body-worn cameras (BWCs) can be an important tool, and funding to assist in purchasing cameras, providing training in and standards for their use, and appropriately storing data collected via cameras is essential if more departments are to be camera-equipped; and
2. **WHEREAS**, in its interim report, the President's Task Force on 21st Century Policing cited research which it described as "highly suggestive that the use of BWCs by the police can significantly reduce both officer use of force and complaints against officers," but also cited a 2014 report by the Police Executive Research Forum, funded by the COPS Office, which identified policy and implementation questions relating to the use of body-worn cameras: "Body-worn cameras not only create concerns about the public's privacy rights but also can affect how officers relate to people in the community, the community's perception of the police, and expectations about how police agencies should share information with the public;" and
3. **WHEREAS**, the President's Task Force report also stated that "in a world in which anyone with a cell phone camera can record video footage of a police encounter, BWCs help police departments ensure that events are also captured from an officer's perspective. But when the public does not believe its privacy is being protected by law enforcement, a breakdown in community trust can occur," and the Task Force recommended that law enforcement agencies need to consider ways to involve the public in discussions related to the protection of their privacy and civil liberties prior to implementing new technology, as well as work with the public and other partners in the justice system to develop appropriate policies and procedures for use; and
4. **WHEREAS**, on December 1, 2014, President Obama proposed a three-year \$263 million investment package to increase the use of body-worn cameras, including, a new Body Worn Camera Partnership Program which would provide a 50 percent match to states and localities that purchase body worn cameras and requisite storage, specifying that the proposed \$75 million investment over three years could help purchase 50,000 body worn cameras; and

5. **WHEREAS**, on May 1, 2015, the U.S. Department of Justice announced the first phase of that program, making \$17 million available to law enforcement agencies to develop, implement and evaluate BWC programs,
6. **NOW, THEREFORE, BE IT RESOLVED**, that The United States Conference of Mayors believes that body-worn cameras can be an important tool, that the decision to deploy them must be a local one, and that police departments need federal assistance in purchasing cameras, providing training in and establishing standards for their use, and appropriately storing data collected via cameras; and
7. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors calls on Congress to provide at a minimum the funding requested by the President for the Body-Worn Camera Partnership Program; and
8. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors calls for increased federal funding for research into the impact of body-worn cameras and for the development of body-worn camera technology.

Projected Cost: At least \$75 million

Office of Justice Programs Comprehensive Body-Worn Camera Program

The Department of Justice (DOJ) recognizes that body-worn cameras are one law enforcement strategy aimed at improving public safety, reducing crime, and improving public trust between police and the citizens they serve. DOJ provides numerous resources to assist state, local, and tribal law enforcement agencies in developing and enhancing their body-worn camera program. In addition to the resources listed below, the Edward Byrne Memorial Justice Assistance Grant (JAG) Program is a valuable resource for agencies when seek body-worn camera programs.

BJA FY 15 Body-Worn Camera Pilot Implementation Program

Funding to Establish or Enhance a Body-Worn Camera Pilot

As part of President Obama's commitment to expand funding and training to law enforcement agencies through community policing initiatives, the Department of Justice through its Office of Justice Programs will announce a \$20 million Body-Worn Camera (BWC) Pilot Partnership Program in May to respond to the immediate needs of local and tribal law enforcement organizations. The investment includes a \$19 million competitive BWC pilot partnership program for the actual purchase of BWCs, training, and other technical assistance as well as \$1 million for the Bureau of Justice Statistics to develop evaluation and survey tools to study best practices regarding the evidentiary impacts of body-worn cameras.

The intent of the program is to assist agencies in developing, implementing, and evaluating a BWC program as one tool in a law enforcement agency's comprehensive problem-solving approach to enhance officer interactions with the public and build community trust. Elements of such an approach include:

- Implementation of a BWC program developed in a planned and phased approach.
- Collaboration that leverages partnerships with cross-agency criminal justice stakeholders including prosecutors and advocacy organizations.
- Implementation of appropriate privacy policies.
- Implementation of operational procedures and tracking mechanisms.
- Training of officers, administrators, and associated agencies requiring access to digital multimedia evidence (DME).
- Adoption of practices and deployment of BWC programs appropriately addressing operational requirements.

This funding requires a 50% in-kind match. Additionally, BJA expects to make up to 50 awards with the BWC Pilot Implementation Program solicitation. Approximately one-third of the awards will be made to small agencies. While BWC equipment may be purchased under this program, applicants must establish a strong BWC policy framework and requisite training policies before purchasing cameras. Federal funding will not support data storage. Many BWC service providers do not segregate the cost of the physical BWC and the storage functions. The solicitation does not specifically exclude these solutions.

BJA's FY15 Smart Policing Initiative Body-Worn Camera Problem-Solving Demonstration Program

Funding to Implement and Examine a Body-Worn Camera Demonstration Building on previous activities conducted through the BJA Smart Policing Initiative, the FY15 Smart Policing Initiative Body-Worn Camera Problem-Solving Demonstration Program will provide up to \$2 million to law enforcement agencies interested in partnering with a research partner to examine the impact of the implementation of body-worn cameras on citizen complaints, the process and outcome of internal investigations, privacy issues, community relationships, and the cost-benefit ratio of implementing a body-worn camera program. Funding may be used to support BWC implementation planning, policy, and protocol development, training, personnel costs, and for an evaluation by the identified research partner. www.smartpolicinginitiative.com

BJA Body-Worn Camera Implementation Toolkit

Online Resource Guide

The BJA Body-Worn Camera Toolkit is an online resource for stakeholders and will include lessons learned for implementation, model policies and procedures, and research materials. To be launched in May of 2015, the toolkit will consolidate and translate research, promising practices, templates, and tools that have been developed by high-quality experts. Areas of focus include procurement considerations; training needs; implementation requirements; retention issues; policy concerns; interests of prosecutors, domestic violence, and victim and privacy advocates; community engagement; and funding considerations.

On Demand Body-Worn Camera Training and Technical Assistance

Through a competitive process, BJA will provide up to \$2 million to establish on demand Body-Worn Camera Training and Technical Assistance (BWC-TTA) services to provide high-quality, strategically focused training and technical assistance to agencies developing or enhancing their body-worn camera program. The BWC-TTA will provide national resources on a variety of topics that address the concerns of multidisciplinary stakeholders engaged in body-worn camera programs. While these services will target the grantees in the Body-Worn Camera Pilot Implementation Program, they will also be generally available for all law enforcement agencies and their communities to support their body-worn camera initiatives.

askbwc@usdoj.gov

Resolution No. 22

Submitted by:

The Honorable Greg Fischer, Mayor of Louisville
The Honorable Steve Benjamin, Mayor of Columbia, SC
The Honorable Bill de Blasio, Mayor of New York
The Honorable Michael Brennan, Mayor of Portland, ME
The Honorable Rahm Emanuel, Mayor of Chicago
The Honorable Eric Garcetti, Mayor of Los Angeles
The Honorable Charlie Hales, Mayor of Portland, OR
The Honorable Edwin Lee, Mayor of San Francisco
The Honorable Sam Liccardo, Mayor of San Jose
The Honorable Michael Nutter, Mayor of Philadelphia
The Honorable Stephanie Rawlings-Blake, Mayor of Baltimore
The Honorable Pedro E. Segarra, Mayor of Hartford
The Honorable Marilyn Strickland, Mayor of Tacoma
The Honorable Martin J. Walsh, Mayor of Boston

IN SUPPORT OF THE MY BROTHER'S KEEPER INITIATIVE

1. **WHEREAS**, many boys and young men of color face difficulty realizing their full potential contending with persistent gaps in employment and educational outcomes, while data demonstrates that they are less prepared to succeed in school and the workforce, and they are more likely than their peers to come into contact with the criminal justice system or to become victims of murder or violent crime; and
2. **WHEREAS**, our cities bear vast social and economic costs from these troubling outcomes in communities across the nation, and President Obama has recognized the urgent need to tackle this complex problem; and
3. **WHEREAS**, President Obama launched the My Brother's Keeper ("MBK") Initiative in February 2014 to coordinate interagency efforts that seek to address those disparities and opportunity gaps faced by boys and young men of color; and
4. **WHEREAS**, President Obama established the My Brother's Keeper Task Force ("MBK Task Force") to examine which public and private efforts are working to improve educational, employment, and social outcomes for boys and young men of color and how the Administration can support and expand upon existing, effective strategies; and
5. **WHEREAS**, the MBK Task Force presented its findings and outlined six specific focus areas and goals in a Task Force Report to President Obama in May 2014; and
6. **WHEREAS**, hundreds of mayors and other local elected officials accepted the MBK Community Challenge, an initiative organized by the White House to encourage communities to implement a cradle-to-college and career strategy aimed at improving life

outcomes for all young people, consistent with Task Force goals and recommendations; and

7. **WHEREAS**, President Obama recently launched the MBK Alliance, an independent nonprofit, that will continue this critical work in the future with strong commitments from the private sector and the philanthropic community; and
8. **WHEREAS**, the Administration continues to prioritize this issue and has directed Federal support toward local efforts through grant programs administered by the Department of Justice, the Department of Education, the Department of Labor, and other agencies,
9. **NOW, THEREFORE, BE IT RESOLVED**, The United States Conference of Mayors commends the Administration, mayors and other acceptors of the MBK Community Challenge, and the MBK Task Force for its continuous engagement with public and private stakeholders; and
10. **BE IT FURTHER RESOLVED**, The United States Conference of Mayors urges the Administration to continue advancing the goals outlined by the Task Force through Federal policy, funding, and program alignment; and
11. **BE IT FURTHER RESOLVED**, that mayors will continue the critical work of the MBK Initiative, in partnership with Administration and the MBK Alliance, striving to enhance opportunities and outcomes for boys and young men of color.

Projected Cost: Unknown

Submitted by:

The Honorable William A. Bell, Sr., Mayor of Birmingham

The Honorable Michael A. Nutter, Mayor of Philadelphia

MY BROTHER'S KEEPER

1. **WHEREAS**, on February 27, 2014 President Obama launched the My Brother's Keeper initiative to address persistent opportunity gaps faced by boys and young men of color and ensure that all young people can reach their full potential; and
2. **WHEREAS**, through this initiative, the Administration has joined with cities and towns, nonprofit organizations, businesses, and foundations that are taking steps to connect young people to mentoring, support networks, and the skills they need to find a good job or go to college and work their way into the middle class; and
3. **WHEREAS**, in June 2014 Conference of Mayors President and Sacramento Mayor Kevin Johnson, announced the establishment of the Conference's My Brother's Keeper Task Force and asked the Task Force to pay particular attention to four specific areas to further the aims of My Brother's Keeper: 1) Launch public-private campaigns to actively recruit mentors for youth and improve the quality of mentoring programs; 2) Increase awareness about youth summer employment and use of pre-apprenticeships as good entry-level jobs; 3) Increase access to high-quality pre-K education; and 4) Eliminate suspensions and expulsions in preschool and other early learning settings; and
4. **WHEREAS**, the Conference Task Force began its efforts with collection of basic information on MBK-related efforts underway and/or planned in the Task Force cities and the roles that the mayors of these cities were playing and found that Mayors were playing a leadership role both within government and with community leaders and the public relating to My Brother's Keeper and that a wide range of activities are underway in the six specific MBK focus areas:
 - Entering school ready to learn;
 - Reading at grade level by third grade;
 - Graduating from high school ready for college and career;
 - Completing postsecondary education or training;
 - Successfully entering the workforce;
 - Reducing violence and providing a second chance; and
5. **WHEREAS**, in late September 2014 the White House launched the MBK Community Challenge, announcing then that more than 200 mayors, tribal leaders, and county executives across 43 states and the District of Columbia had accepted it in partnership with more than 2,000 individual community-based allies, and

6. **WHEREAS**, currently 227 cities have accepted the MBK Community Challenge, and these “MBK Communities” are working to design and implement cradle-to-college-and-career action plans, and have agreed to review local public policy, host action summits, and start implementing their locally tailored action plans to address opportunity gaps within six months of accepting the Challenge; and
7. **WHEREAS**, foundations, corporations and their partners have committed nearly \$500 million to invest in evidence-based interventions that are working to address persistent opportunity gaps facing boys and young men of color and ensure all youth can reach their full potential; and
8. **WHEREAS**, on May 4, President Barack Obama announced the establishment of the My Brother’s Keeper Alliance, a new independent non-profit with a board composed of a diverse group of philanthropic, community, and private-sector leaders and other prominent private citizens and an Advisory Council that includes three mayors all of whom are Conference of Mayors leaders; and
9. **WHEREAS**, the Alliance was launched with more than \$80 million in private sector commitments that are to be used to expand opportunities for youth, strengthen the American workforce, and fortify the economic stability of communities across America,
10. **NOW, THEREFORE, BE IT RESOLVED**, that The United States Conference of Mayors commends President Obama and his Administration for the establishment and implementation of the My Brother’s Keeper initiative and its substantial efforts to involve cities across the nation and provide resources to them to carry out its purposes; and
11. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors pledges to continue to work through its My Brother’s Keeper Task Force with the Obama Administration on its efforts to bolster opportunity for boys and young men of color in cities nationwide and with the MBK Alliance to help assure that its resources are made available to cities to support their activities relating to achieving the six MBK focus areas.

Projected Cost: Unknown

The White House

Office of the Press Secretary
For Immediate Release

February 27, 2014

FACT SHEET: Opportunity for all: President Obama Launches My Brother's Keeper Initiative to Build Ladders of Opportunity For Boys and Young Men of Color

"I'm reaching out to some of America's leading foundations and corporations on a new initiative to help more young men of color facing especially tough odds to stay on track and reach their full potential."

– President Barack Obama, January 28, 2014

"There are a lot of kids out there who need help, who are getting a lot of negative reinforcement. And is there more that we can do to give them the sense that their country cares about them and values them and is willing to invest in them?"

– President Barack Obama, July 19, 2013

President Obama is taking action to launch **My Brother's Keeper** – a new initiative to help every boy and young man of color who is willing to do the hard work to get ahead. For decades, opportunity has lagged behind for boys and young men of color. But across the country, communities are adopting approaches to help put these boys and young men on the path to success. The President wants to build on that work. We can learn from communities that are partnering with local businesses and foundations to connect these boys and young men to mentoring, support networks, and skills they need to find a good job or go to college and work their way up into the middle class. And the Administration will do its part by helping to identify and promote programs that work.

That starts by using proven tools that expand opportunity at key moments in the lives of these young people. The President believes this includes ensuring access to basic health, nutrition, and to high-quality early education to get these kids reading and ready for school at the youngest age. But that's not enough. We need to partner with communities and police to reduce violence and make our classrooms and streets safer. And we need to help these young men stay in school and find a good job– so they have the opportunity to reach their full potential, contribute to their communities and build decent lives for themselves and their families.

New Presidential Task Force to Expand Opportunity. President Obama will sign a Presidential Memorandum establishing the My Brother's Keeper Task Force, an interagency effort, chaired by Assistant to the President and Cabinet Secretary Broderick Johnson, that will help us determine what public and private efforts are working and how to expand upon them, how the Federal Government's own policies and programs can better support these efforts, and how to better involve State and local officials, the private sector, and the philanthropic community in these efforts.

The Task Force will work across executive departments and agencies to:

- Assess the impact of Federal policies, regulations, and programs of general applicability on boys and young men of color, so as to develop proposals that will enhance positive outcomes and eliminate or reduce negative ones.
- Recommend, where appropriate, incentives for the broad adoption by national, State, and local public and private decision makers of effective and innovative strategies and practices for providing opportunities to and improving outcomes for boys and young men of color.
- Create an Administration-wide “What Works” online portal to disseminate successful programs and practices that improve outcomes for boys and young men of color.
- Develop a comprehensive public website, to be maintained by the Department of Education, that will assess, on an ongoing basis, critical indicators of life outcomes for boys and young men of color in absolute and relative terms.
- Work with external stakeholders to highlight the opportunities, challenges, and efforts affecting boys and young men of color.
- Recommend to the President means of ensuring sustained efforts within the Federal Government and continued partnership with the private sector and philanthropic community as set forth in the Presidential Memorandum.

Investments from Leading Foundations and Businesses to Advance the Achievement of Boys and Young Men of Color. Leading foundations and businesses have long worked with others in philanthropy to create opportunities for young men and boys of color and today are committing significant resources to research critical intervention points in the lives of boys and young men of color; change the often-damaging narrative about them; and catalyze coordinated investments to seed, replicate, and scale up effective community solutions. The foundations supporting today’s call to action have already made extensive investments, including \$150 million in current spending that they have already approved or awarded. Building on that, today these foundations are announcing that over the next five years they seek to invest at least \$200 million, alongside additional investments from their peers in philanthropy and the business community, to find and rapidly spread solutions that have the highest potential for impact in key areas, including: early child development and school readiness, parenting and parent engagement, 3rd grade literacy, educational opportunity and school discipline reform, interactions with the criminal justice system ladders to jobs and economic opportunity and healthy families and communities.

The foundations will work over the next 90 days to design a strategy and infrastructure for coordination of these investments, which can be aligned with additional commitments from a diverse array of actors from other sectors.

These foundations, who are joining President Obama at today’s announcement, include The Annie E. Casey Foundation, The Atlantic Philanthropies, Bloomberg Philanthropies, The California Endowment, The Ford Foundation, The John S. and James L. Knight Foundation, The Open Society Foundations, The Robert Wood Johnson Foundation, The W.K. Kellogg Foundation, and The Kapor Center for Social Impact. Many of the foundations are members of the Executives’ Alliance to Expand Opportunities for Boys and Men of Color – a coalition of philanthropic institutions committed to leveraging philanthropy’s role in improving life outcomes for boys and men of color.

In addition to the leadership from the philanthropic community, the My Brother's Keeper initiative will leverage participation from the business community and elected officials to support this cross-sector effort. As part of today's announcement, President Obama will meet with a number of business leaders – including Joe Echevarria of Deloitte, Magic Johnson of Magic Johnson Enterprises, Glenn Hutchins of Silver Lake Partners, Adam Silver of the National Basketball Association and Thomas Tull of Legendary Entertainment – to discuss ways in which they and their companies can work with the Initiative to improve the life outcomes of boys and young men of color.

The President will also be joined today by public sector leaders including General Colin Powell, Mayor Rahm Emanuel and the Honorable Michael Bloomberg. Additionally, several other prominent members of the business community—including Rosalind Brewer of Sam's Club, Ken Chenault of American Express, and Don Thompson of McDonald's—have already expressed their support for this effort, and the White House expects additional commitments in the coming days and months.

* * *

Data shows that boys and young men of color, regardless of socio-economic background, are disproportionately at risk throughout the journey from their youngest years to college and career. For instance, large disparities remain in reading proficiency, with 86 percent of black boys and 82 percent of Hispanic boys reading below proficiency levels by the fourth grade – compared to 58 percent of white boys reading below proficiency levels. Additionally, the disproportionate number of black and Hispanic young men who are unemployed or involved in the criminal justice system alone is a perilous drag on state budgets, and undermines family and community stability. These young men are more than six times as likely to be victims of murder than their white peers and account for almost half of the country's murder victims each year.

The effort launched today is focused on unlocking the full potential of boys and young men of color – something that will not only benefit them, but all Americans. The Task Force and new private sector partnership will take a collaborative and multidisciplinary approach to building ladders of opportunity. Both the Task Force and the partnership will take action immediately while planning for long-term success.

September 30, 2014

FACT SHEET: The White House Launches the “My Brother’s Keeper Community Challenge”

In February, President Obama launched the My Brother’s Keeper (MBK) initiative to ensure that all youth, including boys and young men of color, have opportunities to improve their life outcomes and overcome barriers to success. As part of that launch, the President also established the My Brother’s Keeper Task Force (Task Force) to review public and private sector programs, policies, and strategies, and determine ways the Federal Government can better support these efforts. The Task Force was also charged with determining how to better involve State and local officials, the private sector, and the philanthropic community. In late May, the Task Force released its 90-day interim progress report, which identified a set of recommendations and a blueprint for action for government, business, non-profit, philanthropic, faith, and community partners.

Since the launch of MBK, the Task Force has met with and heard from thousands of Americans, through online and in-person listening sessions, who are already taking action. In June, responding to their commitment announced at the MBK launch, eleven of the nation's leading philanthropies announced \$194 million in independent incremental investments in organizations and initiatives, including programs to enhance school learning environments and reduce young people’s interaction with the justice system. In July, President Obama announced new independent commitments by businesses and nonprofits representing more than \$100 million dollars and pledges of support from educators, business leaders, athletes, and mayors aimed at addressing some of the report’s recommendations. Also in July, the National Convening Council (NCC) was launched as an independent private sector initiative bringing together leaders from business, philanthropy and the faith, youth, Tribal, local, and nonprofit communities.

On September 27th, the President announced that more than 100 mayors, county officials and tribal nations (full list below) have already accepted the “My Brother’s Keeper Community Challenge” (“MBK Community Challenge” or “Challenge”), the next step in organizing and building upon the work of community leaders to improve outcomes for youth in America.

MBK Community Challenge

Today, the White House announced the MBK Community Challenge, an effort to encourage communities (cities, counties, suburbs, rural municipalities, and tribal nations) to implement a coherent cradle-to-college and career strategy aimed at improving life outcomes for all young people, consistent with the goals and recommendations of the Task Force’s May report, to ensure that all youth can achieve their full potential, regardless of who they are, where they come from, or the circumstances into which they are born. The Challenge is not a new federal

program, but rather a call to action for leaders of communities across the Nation to build and execute comprehensive strategies that ensure:

- All children enter school cognitively, physically, socially, and emotionally prepared;
- All children read at grade level by third grade;
- All young people graduate from high school;
- All young people complete post-secondary education or training;
- All youth out of school are employed; and
- All young people are safe from violent crime.

The Task Force also identified a set of “cross cutting” areas, among them the importance of caring adults being present and active in the lives of children, hence the emphasis placed on mentoring.

The Challenge calls upon mayors, Tribal leaders, town and county executives, encouraging them to take the following steps: within 45 days of accepting the Challenge, local communities convene a Local Action Summit with key public and private sector stakeholders to assess needs, determine priorities, and decide what combination of the above objectives they will tackle; within six months of accepting the Challenge, communities publicly launch a plan of action for accomplishing their goals, which will include a protocol for tracking data, benchmarks for tracking progress, and a blueprint for how the community will resource its efforts.

The White House, the U.S. Department of Education, and the NCC are launching the Challenge. The NCC will provide communities with resources to support their local planning process, assisting them in developing successful strategies for action and tracking their progress. More information, including how local executives can sign up for the Challenge, is available at www.MBKChallenge.org.

Additionally, the Federal government has recently announced a number of programs that address recommendations in the My Brother’s Keeper Task Force progress report. For example, the **Department of Justice** announced a \$4.75 million initiative to invest in training, evidence-based strategies, policy development and research to build trust and strengthen the relationship between law enforcement, and the communities they serve, and through the Smart on Juvenile Justice initiative, awarded \$2 million in three grants which provide training, technical assistance and education to improve the quality of services, end racial and ethnic disparities, and encourage reforms in juvenile justice systems. The **Department of Education** awarded more than \$57 million in grants focused on improving school climates and keeping students safe. And in September, the **Departments of Justice and Housing and Urban Development** announced a collaboration between HUD-funded organizations, and civil legal aid programs and public defender offices, to focus on expunging and sealing juvenile records – improving the chances that reentering youth will be able to obtain degrees, find work, and secure housing.

IN THE NEWS

MAY 4, 2015

My Brother's Keeper Alliance Fact Sheet

Today, My Brother's Keeper Alliance, a new independent nonprofit, will launch at an event being held at Lehman College in the Bronx, NY. President Obama will give remarks during the event and participate in a roundtable discussion with young men from New York and across the country.

In February 2014, the President launched the My Brother's Keeper initiative to address persistent opportunity gaps faced by boys and young men of color and ensure all youth can reach their full potential. The initiative led to many conversations among leaders across sectors about the need to create a holistic, cross sector approach to address a range of challenges particularly affecting boys and young men of color. There has been a growing sentiment among business leaders to not only engage in productive conversations, but to also significantly increase action being taken to address inequities these young people face.

Joe Echevarria heard the President's call to action and has been leading the effort to form MBK Alliance with a group of like-minded peers. This new, independent private sector effort is an opportunity to not only elevate the conversation, but utilize strategic, evidence-based interventions from community, private, and social enterprise partners that tackle the achievement gaps from cradle to career.

The Challenge

Throughout American history, there have been significant opportunity and achievement gaps between boys and young men of color and their peers. Among African American and Hispanic males between ages 16 and 24, as much as 25 percent are considered disconnected – meaning they are neither in school nor employed. With poor education outcomes, lesser career skills and lower rates of employment, these young men face tougher odds in trying to reach their full potential.

Despite being one of the fastest-growing population segments, the American dream is largely out of reach for them. Closing these gaps will require a sustained long-term effort, requiring input from both the public and private sectors as we prepare for a new American century.

Why the Private Sector is Taking on This Mission

As the nation grows more diverse, businesses must evolve to address the needs of changing demographics. Labor projections suggest that by 2018, U.S. employers will need 22 million new workers with a post-secondary education – and will have only 19 million available. By 2020, the majority of Americans under the age of 18 will be persons of color. As it stands, the opportunity gap among boys and young men of color is a burden to the American economy:

- A single disconnected young man costs society nearly \$1 million over his lifetime.
- High school graduates pay more taxes, draw less from social welfare programs and are less likely to commit crimes than drop-outs.

- Research shows that closing the achievement gap between young men of color and their peers could increase the annual GDP by as much as \$2.1 trillion.

The opportunity and achievement gap is both a challenge and a chance for innovative solutions. As our national demographics continue to evolve, interventions to improve education, career skills and achievement for boys and young men of color will be critical to the development of a skilled, sustainable workforce for the 21st century.

What Will My Brother's Keeper Alliance Do?

In catalyzing a national ecosystem of support to help boys and young men of color, MBK Alliance will support program interventions targeting six key life milestones:

1. Entering School Ready to Learn (Early Childhood)
2. Reading at Grade Level by Third Grade (Middle Childhood)
3. Graduating from High School Ready for College and Career (Adolescence)
4. Completing Post-Secondary Education or Training (Adulthood Transition)
5. Successfully Entering the Workforce (Adulthood)
6. Reducing Violence and Providing a Second Chance (Throughout Life)

With commitments to date totaling over \$80 million, MBK Alliance will start by:

- **Playbook for Corporations and Businesses** – MBK Alliance developed a comprehensive guide to mobilize the private sector in addressing key obstacles facing young men of color;
- **Innovation Grants** – MBK Alliance will disperse up to \$7 million in grants to programs and organizations with proven, innovative intervention programs; and
- **Community Grants Competition** – MBK Alliance will create a \$15-25 million grants competition to reward up to nine communities with \$3 million to build local infrastructure and capacity.

My Brother's Keeper Alliance Leadership

MBK Alliance includes a diverse group of leaders that include CEOs from Fortune 50 companies, high-profile entertainers, leading nonprofits and current and former government officials.

- **Board and Leadership Team:**
 - Joe Echevarria, Chairman and CEO, My Brother's Keeper Alliance
 - Alice Kwan, Principal, Deloitte Consulting LLP
 - Alonzo Mourning, Former NBA Player, Miami Heat
 - Darryl Brown, President Americas Global Corporate Payments, American Express
 - David Williams, Public Policy, Government Affairs and Corporate Citizenship Leader, Deloitte LLP
 - Debra Lee, Chairman and CEO, BET Networks
 - George Logothetis, Chairman and CEO, Libra Group

- The Honorable Jim Shelton, Former Deputy Secretary of the U.S. Department of Education
 - John Legend, Honorary Chairman, My Brother's Keeper Alliance; Founder, The Show Me Campaign
 - John Rogers, Chairman and CEO, Ariel Investments
 - Juan Sabater, Managing Director of Idea Generation and Execution, Valor Equity Partners
 - Lori Dickerson Fouché, CEO, Prudential Group Insurance
 - Marcelo Claure, CEO, Sprint
 - Marisa Lee, Managing Director, My Brother's Keeper Alliance
 - Robert Raben, Founder/President, The Raben Group
 - Rosalind Brewer, CEO, Sam's Club
 - Thomas Tull, CEO, Legendary Entertainment
 - Toni Cook Bush, Executive Vice President and Global Head of Government Affairs, News Corporation
 - Tony West, EVP of Government Affairs, PepsiCo
 - Walter Isaacson, CEO, Aspen Institute
- **Advisory Council:**
 - Allan Ludgate, Director, Deloitte Consulting
 - Angela Glover Blackwell, Founder and CEO, PolicyLink
 - Anne Williams-Isom, CEO, Harlem Children's Zone
 - Brandon Yellowbird-Stevens, Councilmen Oneida Tribe of Wisconsin
 - Bryan Stevenson, Founder and Executive Director, Equal Justice Initiative
 - Carol Lewis, Founder, Ground Control Parenting
 - General Colin Powell, Former U.S. Secretary of State
 - The Honorable Cory Booker, U.S. Senate
 - Dalila Wilson-Scott, Managing Director, Global Philanthropy, JPMorgan Chase
 - Danielle Gray, Partner, O'Melveny & Myers LLP
 - The Honorable Eric Holder, Former U.S. Attorney General
 - The Honorable Frederica Wilson, U.S. Congresswoman
 - Reverend Gabriel Salguero, President, National Latino Evangelical Coalition
 - Ignacio Salazar, National President and CEO, SER-Jobs for Progress National, Inc.
 - Javier Palomarez, President and CEO, United States Hispanic Chamber of Commerce
 - Jerome Bettis, Former NFL Player, The Bus36
 - John Rice, Founder and CEO, Management Leadership for Tomorrow
 - Judith Browne Dianis, Co-Director, Advancement Project
 - The Honorable Greg Ballard, Mayor, City of Indianapolis, Indiana
 - The Honorable Kevin Johnson, Mayor, City of Sacramento, California
 - The Honorable Michael Nutter, Mayor, City of Philadelphia, Pennsylvania
 - Melody Barnes, Chair, Aspen Forum for Community Solutions
 - Michael Lombardo, CEO, Reading Partners
 - Michael Skolnik, President, GlobalGrind.com
 - Nick Turner, President and Director, Vera Institute of Justice

- Peggy McLeod, Deputy Vice President, National Council of La Raza
 - Rashad Robinson, Executive Director, Color of Change
 - Robert Ross, President and CEO, The California Endowment
 - Scott Budnick, Founder/President, Anti-Recidivism Coalition
 - Shaquille O’Neal, Former NBA Player
 - Shaun Harper, Executive Director for the Center for the Study of Race and Equity in Education, University of Pennsylvania
 - Shawn Dove, CEO, Campaign for Black Male Achievement
 - Soledad O’Brien, Chairman, Starfish Media Group; Former Anchor, CNN
- **Social Enterprise Partners:** National League of Cities, Opportunity Youth Network, PolicyLink, StriveTogether, United Way and Urban Institute

Corporate Commitments

A combined total of more than \$80 million in in-kind and financial donations have been committed to the MBK Alliance:

- American Express
- Ariel Investments
- Aspen Institute
- BET Networks
- Deloitte Consulting, LLP
- Discovery Networks
- Legendary Entertainment
- The Libra Group
- News Corporation
- Valor Equity
- PepsiCo
- Prudential Group Insurance
- The Raben Group
- Sam’s Club
- Sprint

The Mission

My Brother’s Keeper Alliance (“MBK Alliance”), a new, independent nonprofit, aims to eliminate the gaps in opportunity and achievement for boys and young men of color – making the American dream available to all. This will require strategic evidence-based interventions from community, private, public and social enterprise partners that holistically tackle these gaps from cradle to career.

Resolution No. 35

Submitted by:

The Honorable Eric Garcetti, Mayor of Los Angeles

SUPPORTING FEDERAL FAIR CHANCE HIRING

1. **WHEREAS**, almost one in three adults in the United States has a criminal record that will show up on a routine background check; and
2. **WHEREAS**, a criminal record creates a barrier to employment; and
3. **WHEREAS**, communities of color are impacted by unfair hiring practices concerning past convictions; and
4. **WHEREAS**, a federal fair chance hiring initiative will expand fairness and opportunity in the hiring process and will build stronger families and communities; and
5. **WHEREAS**, 15 states and more than 100 local jurisdictions have adopted “ban the box” and other fair chance hiring reforms, many with the strong bipartisan support, including reforms embraced by Governors Nathan Deal of Georgia, Governor Chris Christie of New Jersey, and Governor Terry McAuliffe of Virginia; and
6. **WHEREAS**, public and private sector employers, and a growing number of the nation’s largest retailers, including Walmart and Target, have adopted fair chance hiring measures; and
7. **WHEREAS**, the cabinet-level Reentry Council, formed by Attorney General Eric Holder in 2011, prioritized efforts to make the federal government a “model employer” of people with criminal records; and
8. **WHEREAS**, in May of 2014, the My Brother’s Keeper Task Force strongly endorsed fair chance hiring reforms because they “give applicants a fair chance and allow employers the opportunity to judge individual job candidates on their merits,
9. **NOW, THEREFORE, BE IT RESOLVED**, that The United States Conference of Mayors urge executive action to ensure that both federal agencies and federal contractors are leading the way to open up employment opportunities for qualified job-seekers who have an arrest or conviction in their past.

Projected Cost: Unknown

NATIONAL EMPLOYMENT LAW PROJECT

January 20, 2015

ADVANCING A FEDERAL FAIR CHANCE HIRING AGENDA: LOCAL & STATE REFORMS PAVE THE WAY FOR PRESIDENTIAL ACTION

by Maurice Emsellem and Michelle Natividad Rodriguez

Almost one in three adults in the United States has a criminal record that will show up on a routine criminal background check. This creates a serious barrier to employment for millions of workers, especially in communities of color hardest hit by decades of over-criminalization.

Reflecting the growing political consensus behind “smart on crime” reforms, elected officials from across the ideological spectrum have embraced “fair chance” hiring policies. These reforms restore hope and opportunity to qualified job-seekers with a criminal record who struggle against significant odds to find work and to give back to their communities. More than 100 jurisdictions have adopted “ban the box” and other fair chance hiring reforms, often in tandem with criminal justice reform priorities. Several major corporations have embraced fair chance hiring as well, including three of the nation’s top five retailers: Walmart, Target, and Home Depot.

The federal government should build on this momentous wave of support for public- and private-sector hiring reforms. Now is the time for President Obama to act boldly to open up employment opportunities for the large numbers of Americans who have been unfairly locked out of the job market because of a criminal record. As the President’s “My Brother’s Keeper” Task Force recently concluded:

Our youth and communities suffer when hiring practices unnecessarily disqualify candidates based on past mistakes. We should implement reforms to promote successful reentry, including encouraging hiring practices, such as “Ban the Box,” which give applicants a fair chance and allows employers the opportunity to judge individual job candidates on their merits as they reenter the workforce.

This paper makes the case for a federal fair-chance-hiring administrative initiative—including an Executive Order and Presidential Memorandum—that ensures that both federal agencies and federal contractors are leading the way to create job opportunities for qualified people with criminal records. In addition, as the 114th Congress convenes, this paper identifies several bipartisan legislative priorities, including the REDEEM Act (S. 2567), co-sponsored by Senators Corey Booker (D-NJ) and Rand Paul (R-KY), that would significantly advance employment opportunities for people with criminal records.

Resolution No. 24

Submitted by:

The Honorable Martin J. Walsh, Mayor of Boston
The Honorable Michael A. Nutter, Mayor of Philadelphia
The Honorable Michael Coleman, Mayor of Columbus, OH
The Honorable Edwin M. Lee, Mayor of San Francisco
The Honorable Eric Garcetti, Mayor of Los Angeles
The Honorable Charlie Hales, Mayor of Portland, OR
The Honorable Pedro E. Segarra, Mayor of Hartford
The Honorable Michael Brennan, Mayor of Portland, ME
The Honorable Stephanie Rawlings-Blake, Mayor of Baltimore
The Honorable Rahm Emanuel, Mayor of Chicago
The Honorable Edward Murray, Mayor of Seattle

**RESOLUTION SUPPORTING COMMON SENSE GUN LAWS
THAT PROTECT VICTIMS OF DOMESTIC VIOLENCE AND
OPPOSING FIREARMS LEGISLATION THAT THREATENS
PUBLIC SAFETY**

1. **WHEREAS**, protecting public safety in the communities mayors serve is municipal leaders' highest responsibility; and
2. **WHEREAS**, every day 88 Americans are killed by gun violence, and Americans are 20 times more likely to be murdered with guns than people in other developed countries; and
3. **WHEREAS**, support for the Second Amendment rights of law-abiding citizens goes hand-in-hand with keeping guns away from dangerous people; and
4. **WHEREAS**, American women are at elevated risk of firearm violence, and are 11 times more likely to be shot and killed than women in other developed countries; and
5. **WHEREAS**, the presence of a firearm in a domestic violence situation makes it five times more likely that domestic abuse will culminate in homicide; and
6. **WHEREAS**, states that have laws restricting access to firearms by abusers subject to domestic violence restraining orders see a 25 percent reduction in intimate partner homicides; and
7. **WHEREAS**, mayors and law enforcement officers know their communities best, are the most familiar with local criminal activity and how to address it, and are best positioned to understand how to keep their citizens safe; and
8. **WHEREAS**, state firearm preemption laws prohibit local governments from adopting reasonable gun laws tailored to local conditions, and prevent mayors, municipal councils

and law enforcement officers from enacting, maintaining and enforcing reasonable firearms regulations as allowed under the Constitution of the United States; and

9. **WHEREAS**, dangerous firearm preemption laws proposed or enacted in recent years impose punitive penalties on local officials who seek to reduce gun violence, while incentivizing individuals and groups to sue such officials, and requiring local taxpayers to bear the costs of such vexatious litigation; and
10. **WHEREAS**, mayors and law enforcement understand that ensuring the safety of children in schools is a duty of the utmost, critical importance; and
11. **WHEREAS**, mayors and law enforcement recognize that trained law enforcement officers and professional security officers are the best positioned to provide armed security and protect children in schools, and that asking teachers and other private citizens to double as sharpshooters will detract from schools' educational mission; and
12. **WHEREAS**, our schools should be places where students safely learn reading, math, and science, and not how to duck and cover,
13. **NOW, THEREFORE, BE IT RESOLVED**, that The United States Conference of Mayors registers its strong support for laws that prohibit persons convicted of domestic violence crimes, including violent misdemeanors, or subject to final domestic violence restraining orders from acquiring or possessing firearms, and for laws that require prohibited domestic abusers to turn in firearms they already own, and urges that states lacking such laws to enact them promptly; and
14. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors registers its strong opposition to legislation that would threaten women's lives by facilitating the acquisition and possession of firearms by dangerous domestic abusers who have been convicted of domestic violence crimes or are subject to final domestic violence restraining orders; and
15. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors recognizes that mayors and local law enforcement are best positioned to adopt reasonable firearm regulations tailored to local conditions, and, therefore, that laws imposing punitive penalties on or authorizing lawsuits against local officials who seek to reduce gun violence threaten public safety; and
16. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors registers its strong opposition to state firearm preemption laws that encourage lawsuits against local officials who seek to reduce gun violence and that require local taxpayers to bear the costs of such vexatious litigation; and
17. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors registers its strong opposition to proposals to allow teachers and other non-law enforcement, non-security personnel to carry firearms in K-12 schools.

Projected Cost: Unknown

Editorial: New low in pandering

Pottsville Republican Herald

January 25, 2015

<http://republicanherald.com/opinion/new-low-in-pandering-1.1821833>

Ask any conservative state lawmaker to identify Public Enemy No. 1 and their answer is likely to be, “trial lawyers.” Many of those legislators strive mightily to diminish the ability of consumers to gain access to the courts. And they often note ruefully that the mere cost of defending a case can make doing so prohibitive.

When it comes to their favorite narrow interest, however — the National Rifle Association — conservative lawmakers in Harrisburg have created a target-rich environment for litigation, but only for those who can afford it.

This month the NRA — a private advocacy organization — sued the cities of Philadelphia, Pittsburgh and Lancaster, which quite sensibly have tried to make their streets safer for citizens. At issue are reasonable city ordinances that require the reporting of lost and stolen handguns and limiting sales to one a month. Such measures help prevent gun trafficking to criminals and don’t preclude anyone’s right legally to own guns.

After courts found those laws to be valid, enough legislators placed their fealty to the politically influential gun lobby above their fealty to public safety, and passed a law allowing the out-of-state narrow-interest group to sue Pennsylvania local governments.

The three cities have the wherewithal to defend their ordinances and deserve credit for doing so. Meanwhile, many small Pennsylvania governments can’t afford to defend against such suits, so they have dropped their ordinances. Pottsville, however, still has an ordinance on the books that requires that lost or stolen guns be reported.

Lawmakers who bristle at directives from Washington and rail against the high costs of litigation should be ashamed of imposing a third party’s will on Pennsylvania cities and abandoning their own “principles” for political expediency.

Editorial: Act 192 is Pa.’s shameful gift to gun lobby

Delaware County Times

Posted: 01/18/15, 11:34 PM EST

<http://www.delcotimes.com/opinion/20150118/editorial-act-192-is-pas-shameful-gift-to-gun-lobby>

It seems there is no limit to the shamelessness of legislators on all levels of government, Republicans and Democrats, when it comes to acquiescing to the deep pockets of the National Rifle Association and other lobbyists for the firearms industry.

On a national level, it was proven in April 2013 when the U.S. Senate failed to achieve a super-majority in passing the bipartisan legislation that would require background checks on the purchase of all firearms. The bill, proposed by Sen. Joe Manchin, D-W.Va., and Sen. Pat Toomey, R-Pa., had the support of the majority of Americans including 90 percent of Pennsylvanians.

It also had the support of Pennsylvania's other U.S. senator, Democrat Bob Casey. All three senators formerly had earned high "grades" from the National Rifle Association. All three found the atrocity at Sandy Hook to be a reality check in terms of gun laws. On Dec. 14, 2012, 20 children and six adults were gunned down by 20-year-old Adam Lanza with more than 150 rounds from an AR-15-style Bushmaster semiautomatic rifle at Sandy Hook Elementary School in Newtown, Conn.

Advertisement

On a state level, the political power of gun dollars was brought home last fall when, incredibly, Pennsylvania legislators passed Act 192, special standing/preemption legislation that allows gun advocates to sue Pennsylvania cities that enact their own gun control ordinances. Gun owners don't even have to show they have been harmed by the local ordinances, which are efforts by municipal officials to eliminate the destruction and death wrought by gun violence in their towns.

Less than a week into 2015, three people were already dead in Delaware County at the hands of others. All of them were shot to death, as were 36 of the record 49 murder victims last year in Delaware County. In the city of Chester alone, 27 of the 30 homicides committed last year were with guns.

To add insult to injury, Act 192 also burdens the municipalities with the gun advocates' legal costs. Ironically, such municipal gun ordinances are essentially unenforceable because they are not sanctioned by the state, which makes Act 192 all the more frivolous.

The state legislators who gave this gift to the gun industry are the same state legislators who, during the four years of the Corbett administration, did not pass real estate tax or pension reform, among other failures.

Last Wednesday, the NRA did not waste any time exploiting the outrageous law and filed suit against Philadelphia, Pittsburgh and Lancaster. Among the ordinances the gun lobbyist objects to in Philadelphia is banning weapon possession by people who are found to pose a risk of "imminent harm" to themselves or others. The NRA is suing both Philadelphia and Lancaster over its ordinances requiring gun owners to report lost or stolen firearms to police. A gun group based in Houston, Texas, last Tuesday filed suit against Harrisburg for a similar law.

Much to their credit, officials in Philadelphia, Pittsburgh and Lancaster are not being intimidated by the lawsuits initiated by the NRA and other gun lobbyists who maintain their constitutional right to bear arms is hampered by any sort of gun control law. These city officials are also invoking the constitution in questioning the legal standing these out-of-state organizations have in filing lawsuits against Pennsylvania municipalities.

Last November, they filed a lawsuit against the Commonwealth of Pennsylvania House Speaker Sam Smith, R-Armstrong County, outgoing Gov. Tom Corbett and outgoing Lt. Gov. Jim Cawley in his capacity of presiding officer of the state Senate, challenging the constitutionality of Act 192.

Backing their effort is CeaseFirePA, a statewide coalition of mayors, police chiefs, religious leaders, community organizations, and other Pennsylvanians dedicated to eliminating gun violence. According to the lawsuit, Act 192 violates the Pennsylvania Constitution in terms of construction and evolution of legislation. It details the ongoing procedural maneuvers, including amendments, extra session days, late voting sessions, and bill re-signings that ultimately resulted in Act 192.

Of course, such legal machinations would be unnecessary if our legislators on Capitol Hill enacted common-sense gun legislation. If the carnage isn't enough to make them do the right thing, the embarrassment of such political sell-outs as Act 192 should shame them into it.

In our words: NRA lawsuit against City of Lancaster enabled by bad lawmaking in Harrisburg

Lancaster LNP

Posted: Sunday, January 18, 2015

http://lancasteronline.com/opinion/editorials/nra-lawsuit-against-city-of-lancaster-enabled-by-bad-lawmaking/article_a4623940-9d1f-11e4-b8aa-53dd44f4ca21.html

The Issue

Pennsylvania Act 192 went into effect Jan. 5. It enables anyone or any organization “adversely affected” by a local gun ordinance to sue the municipality; legal standing is afforded even if the plaintiff doesn’t reside in the municipality. The [National Rifle Association](#), a gun rights group based in Virginia, [is suing](#) Philadelphia, Pittsburgh and the City of Lancaster — Lancaster over its 2009 ordinance that requires gun owners to report lost or stolen guns to the police.

Mayor Rick Gray is clearly frustrated by the NRA lawsuit against the City of Lancaster.

And we share this frustration.

It seems ridiculous that a well-funded lobbying group like the NRA can not only sue Lancaster but do so at no financial risk to itself.

Under Act 192’s provisions, if the NRA wins its lawsuit against Lancaster, the city will have to pay the NRA’s legal costs.

But that’s a one-way deal: There is no provision in the law that would require the NRA to pay the city’s legal costs should the city prevail.

So, thanks to our leaders in Harrisburg, the risk is all on Lancaster and its taxpayers.

This is patently unfair, and only strengthens the perception that Act 192 was the state lawmakers' offering to gun rights activists who wanted to punish local municipalities that had the audacity to enact gun ordinances.

Lancaster has joined Pittsburgh and Philadelphia and a handful of lawmakers in a [legal challenge](#) against Act 192.

State Sen. Daylin Leach, a Democrat from Montgomery County, explained to the Pittsburgh Post-Gazette why he joined that lawsuit: "We passed a bill giving an outside organization the power to sue our own people."

Act 192 was, he said rather colorfully, "like the NRA daydreaming: If you could have erotic fantasies about a bill, what would it be?"

Leach and the others challenging Act 192 say it was tacked on to a bill setting penalties for the theft of metals — and at the legislative session's 11th hour.

The process was slapdash and furtive, and left no time for public input.

As the Post-Gazette points out, "Things were confused enough ... that legislative leaders and Gov. Tom Corbett originally signed an earlier version of the law that lacked the gun provisions. They signed the correct version days later."

This is appalling.

We depart from the Act 192 opponents on this important point: We think the Legislature is right to insist on uniformity of the state's gun laws.

Just as we'd expect this uniformity of laws relating to the First Amendment, we expect this of laws relating to the Second Amendment — and any constitutionally protected right.

But we share Mayor Gray's anger about the Legislature's refusal to debate the gun issue in any meaningful way.

Pennsylvania, as The Associated Press has reported, prohibits municipalities from enacting ordinances that regulate the ownership, possession, transfer or transportation of guns or ammunition.

Gray contends that Lancaster's lost-or-stolen ordinance is legal — and worthwhile enough that the city will defend it against the NRA lawsuit, and has established a legal defense fund to do so.

He says the city had to pass its ordinance because the state has failed to address the issue of lost or stolen guns.

It's true that there has been a real failure of leadership in the state Capitol on this score.

Instead of passing questionable bills that give outside organizations an advantage over our own cities and municipalities, lawmakers need to hold real — and transparent — discussions on gun legislation.

They need to call police chiefs and district attorneys to Harrisburg, and ask them — the people on the front lines of public safety — what holes need to be plugged legislatively to fight crime and keep us safe.

And then they need to plug those holes.

To do this, they will need to stop pandering to the NRA.

And they'll need to be interested in seeking real solutions to the gun violence that is plaguing cities including Lancaster.

If gun legislation is to be the preserve of the state Legislature, then the state Legislature needs to start acting like it's worthy of this responsibility.

Read House Bill 80, which became Act 192: bit.ly/Act192

Read the legal challenge to Act 192:

bit.ly/Act192LegalChallenge

Resolution No. 25

Submitted by:

The Honorable Martin J. Walsh, Mayor of Boston
The Honorable Ralph Becker, Mayor of Salt Lake City
The Honorable Michael A. Nutter, Mayor of Philadelphia
The Honorable Michael Coleman, Mayor of Columbus, OH
The Honorable Paul Soglin, Mayor of Madison
The Honorable Marilyn Strickland, Mayor of Tacoma
The Honorable Charlie Hales, Mayor of Portland
The Honorable Carolyn Goodman, Mayor of Las Vegas
The Honorable Bill de Blasio, Mayor of New York
The Honorable Stephanie Rawlings-Blake, Mayor of Baltimore
The Honorable Michael Hancock, Mayor of Denver
The Honorable Kasim Reed, Mayor of Atlanta
The Honorable Greg Stanton, Mayor of Phoenix
The Honorable Eric Garcetti, Mayor of Los Angeles
The Honorable Mike Rawlings, Mayor of Dallas
The Honorable Libby Schaaf, Mayor of Oakland
The Honorable Michael Brennan, Mayor of Portland
The Honorable Kevin Dumas, Mayor of Attleboro
The Honorable Dan Rizzo, Mayor of Revere
The Honorable Setti Warren, Mayor of Newton
The Honorable Jon Mitchell, Mayor of New Bedford

COMBATING COMMERCIAL SEXUAL EXPLOITATION THROUGH COMPREHENSIVE DEMAND ENFORCEMENT AND PREVENTION

1. **WHEREAS**, the nation's mayors are committed to public safety, health and well-being, and preventing exploitation of our most vulnerable citizens; and
2. **WHEREAS**, illegal commercial sexual exploitation – which includes sex trafficking – is growing throughout the U.S.; increasing exponentially in cities across geographic, socio-economic, and ethnic lines; significantly threatening the safety and well-being of the children and vulnerable adults being purchased, families of buyers and the buyers themselves, legitimate businesses, and our communities; and
3. **WHEREAS**, up to 300,000 of our nation's children are at risk of being commercially sexually exploited each year, often coming from the foster care system, with 13 being the average age at which a girl is first prostituted; and
4. **WHEREAS**, the industry is especially harmful for those being purchased, with the majority of women in prostitution feeling coerced and wanting to leave if they felt they had alternative economic choices for survival; and

5. **WHEREAS**, criminal syndicates', gangs', and drug dealers' involvement in prostitution within and among cities is increasing nationwide, with pimps making \$260,000-\$1,700,000/year; and
6. **WHEREAS**, sex buyers drive the entire illegal sex industry and associated criminal activities, with sex buyers constituting 15 percent of the US adult male population, with the majority having partners and "high-frequency sex buyers" earning on average \$120,000/year, and
7. **WHEREAS**, it is nearly uniformly illegal to purchase sex in the United States, yet prostituted individuals are arrested at a nationwide rate double that of those buying (with the rate in some cities being as high 10:1, seller to buyer), while buyers are rarely held accountable and, therefore, perceive a low risk for continued illegal activity, and
8. **WHEREAS**, there is a growing body of evidence that targeting sex buyers is a pragmatic, effective way to dry up the commercial sex industry; and
9. **WHEREAS**, the majority of purchased sex is brokered online, with nearly 45,000 new ads posted each week in the escort services section just of Backpage.com, where young girls are being advertised; and
10. **WHEREAS**, the Institute of Medicine has suggested "a particular emphasis on deterring demand" in the report *Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States*, and
11. **WHEREAS**, many communities have already implemented tactics targeting ending the demand for illegal commercial sexual exploitation and many mayors have worked hard in their communities to reduce commercial sexual exploitation; and
12. **WHEREAS**, The United States Conference of Mayors is committed to promoting safe and healthy cities, upholding the rule of law, and preventing harm of vulnerable citizens and over the years has taken strong positions against human trafficking and in support of efforts to combat it,
13. **NOW, THEREFORE, BE IT RESOLVED**, that The United States Conference of Mayors reaffirms its previous resolution on combating commercial sexual exploitation; and
14. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors commends Congress for passing the Justice for Victims of Trafficking Act; and
15. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors is prepared to work with the Administration and Congress to combat commercial sexual exploitation of our children and vulnerable adults, and mitigate the associated public safety, economic, and health risks to our nation's cities; and

16. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors calls on the United States Congress and the White House to continue to fund local initiatives to stop human trafficking and its related harms; and
17. **BE IT FURTHER RESOLVED**, that all anti-trafficking strategies are survivor-informed while providing exit strategies and options for prostituted individuals; and
18. **BE IT FURTHER RESOLVED**, that all anti-trafficking strategies focus on holding both sex buyers as well as pimps accountable; and
19. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors urges the Administration to incorporate demand reduction as a primary, secondary, and tertiary prevention strategy in the Federal Strategic Action Plan on Services for Victims of Trafficking; and
20. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors urges the Administration and Congress to fully commit the resources needed to implement all of the provisions of the Justice for Victims of Trafficking Act, particularly those provisions directing action against sex buyers; and
21. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors urges that training and resources be available to local governments and the criminal justice system to stop and deter sex buyers through arrest and prosecution, fines, fees, and penalty assessments that match the severity of the crime, and programs to change sex buyers' behavior long-term (such as so-called "john schools") through federal and state law and city ordinances; and
22. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors encourages research projects evaluating the effectiveness of demand-related programs and activities, furthering greater understanding of the extent of the commercial sex industry, and tracking municipal enforcement of solicitation crimes; and
23. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors urges the development and implementation of age-appropriate prevention and education programs about the risks and harms of the commercial sex industry and anti-demand messaging to be incorporated into middle school and high-school curricula, in faith-based organizations, youth programs, and healthy masculinities programs; and
24. **BE IT FURTHER RESOLVED**, that the members of The United States Conference of Mayors hold themselves and their employees to the highest ethical standards and promote a shift in the culture of tolerance toward purchasing a human being for sex.

Projected Cost: Unknown

Mayor Walsh Launches Cease Boston, Part of National Initiative to Fight Sex Trafficking

For Immediate Release

March 06, 2015

Released By:

[Mayor's Office](#)

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BOSTON - March 6, 2015 — Today Mayor Martin J. Walsh announced the launch of CEASE Boston (Cities Empowered Against Sexual Exploitation), a chapter of the CEASE Network, a collaboration of 11 pioneering cities committed to combating sex trafficking by reducing demand for buying sex by 20 percent in two years. The launch, attended by Boston Police Commissioner William Evans, Attorney General Maura Healey, and Ambassador Swanee Hunt, marks the beginning of a two-year effort to reduce demand for paid sex in Boston.

"Boston is a city that is committed to ending sexual exploitation, and CEASE Boston is one major step towards that," said Mayor Walsh. "Human beings, particularly women and children, are being bought for sex in our own neighborhoods. In Boston, we will not tolerate this illegal and exploitative industry that deprives vulnerable people of their basic human rights and funds a predatory business often tied to gangs and organized crime."

"The mission behind this initiative is simple: cutting off demand and limiting opportunity for exploitation," said Attorney General Maura Healey. "While we continue to focus on improving services for survivors, addressing demand is an important part of combating human trafficking. We thank the Mayor for his leadership on this fundamental issue of public safety and human rights, and we look forward to working with him to put an end to sex trafficking in Boston."

"The exploitative and abusive nature of the sex trafficking trade must come to an end," said Commissioner William Evans. "Far too many young women are victimized by this harmful and destructive cycle. The Boston Police Department is committed to working closely with CEASE Boston and fully support their efforts to fight sex trafficking in the City of Boston."

CEASE Boston will target the men who are buying sex on the streets, and quietly using the Internet to solicit sex. The program aims to reduce online demand activity by 20 percent, as well as street level activity by 80 percent, over the next two years. The program will be co-chaired by Donna Gavin, Sergeant Detective of Boston Police Department's Human Trafficking Unit, and Daniel Mulhern, Director of the City of Boston's Public Safety Initiative.

In Boston, the two-year countdown also tracks the progress of increasing accountability measures, growing public awareness of sexual exploitation in Boston, and improving access to treatment and exit programs for both survivors and buyers. CEASE Boston will measure success by tracking trends, including attitudes related to illegal commercial exploitation; transaction trends on local websites as compared to other cities nationally; online paid sex purchasing behaviors; and efficacy of deterrent posts and public awareness intervention messages.

"While our women and children caught up in sex trafficking have limited options, sex buyers always make the choice to perpetuate a deeply damaging industry," said Audrey Morrissey, associate director of My Life My Choice, a survivor-led organization in Boston, and a survivor herself who attended today's launch. "Reducing demand is just one important way to end the sexual exploitation of young people. As survivors, we are leaders in a fight that we know we can win."

"We're very excited that Mayor Walsh is so publicly committed to this issue," says Ziba Cranmer, Executive Director of Demand Abolition, a Cambridge based program working to reduce the demand for paid sex in America. "It speaks volumes about his dedication to supporting some of the city's most vulnerable citizens. We're proud to call him a partner in our work."

Last month, the 11 cities in the CEASE Network were announced during a gathering of national anti-trafficking leaders in Phoenix, AZ. The cities include: Atlanta, Boston, Chicago (Cook County, IL), Dallas (North Texas), Denver, Houston, Oakland (Alameda County), Phoenix, Portland (Multnomah County, OR), San Diego, and Seattle (King County, WA).

CEASE Boston is supported by Demand Abolition, a Cambridge-based non-profit, catalyzing the new initiative to forge a network of cities that are independently developing their own strategies and tactics to reduce sex-buying.

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The Library of Congress
Summary As Of 5/29/2015--Public Law

(Although this measure has not been amended since it was passed by the Senate, the text was changed by H. Con. Res. 47 which made enrollment corrections, and the summary has been modified as necessary.)

Justice for Victims of Trafficking Act of 2015

TITLE I--JUSTICE FOR VICTIMS OF TRAFFICKING

(Sec. 101) This section amends the federal criminal code to impose an additional assessment until the end of FY2019 of \$5,000 on any non-indigent person or entity convicted of an offense involving: (1) peonage, slavery, and trafficking in persons; (2) sexual abuse; (3) sexual exploitation and other abuse of children; (4) transportation for illegal sexual activity; or (5) human smuggling in violation of the Immigration and Nationality Act (exempting any individual involved in the smuggling of an alien who is the alien's spouse, parent, son, or daughter). An assessment is not payable, however, until the person being assessed has satisfied all outstanding court-ordered fines, orders of restitution, and any other obligation related to victim compensation.

This section also establishes the Domestic Trafficking Victims' Fund into which revenues from such assessments shall be deposited and used in in FY2016-FY2019 to award grants to states and localities to combat trafficking, provide protection and assistance for victims of trafficking, develop and implement child abuse investigation and prosecution programs, and provide services for victims of child pornography. None of the amounts in the Fund may be used to provide health care or medical items or services, except for medical items or services to victims of trafficking.

(Sec. 102) This section amends the Trafficking Victims Protection Act of 2000 to allow U.S. citizens and permanent residents who are victims of severe forms of trafficking to obtain benefits and services available to such victims without obtaining official certification from the Department of Health and Human Services (HHS) of their status as victims.

(Sec. 103) This section amends the Trafficking Victims Protection Reauthorization Act of 2005 to replace the pilot program to establish residential treatment facilities for juveniles subjected to trafficking with a program of three-year renewable block grants administered by the Department of Justice (DOJ) to develop, improve, or expand domestic child human trafficking deterrence programs that assist law enforcement and other entities in rescuing and restoring the lives of trafficking victims, while investigating and prosecuting offenses involving child human trafficking. No entity shall be disqualified from receiving a grant on the grounds that it has only recently begun soliciting data on child human trafficking.

Grant funds may be used for the establishment or enhancement of: (1) specialized training programs for law enforcement officers, first responders, health care and child welfare officials, juvenile justice personnel, prosecutors, and judicial personnel to identify victims and acts of child human trafficking and facilitate the rescue of child victims of human trafficking; (2) anti-trafficking law enforcement units and task forces to investigate child human trafficking offenses and to rescue victims; and (3) problem solving court programs for trafficking victims. Grant funds may also be used for activities of law enforcement agencies to find homeless and runaway youth.

DOJ must enter into a contract with a nongovernmental organization with experience in child human trafficking issues to conduct periodic evaluations of the such block grants to determine their effectiveness.

DOJ is authorized to use funds from the Domestic Trafficking Victims' Fund in each of FY2016-FY2020 to carry out the block grant program.

(Sec. 104) This section expand the definition of "child abuse" under the Victims of Child Abuse Act of 1990 to include human trafficking and the production of child pornography and authorizes grants to develop and implement specialized programs to identify and provide direct services to victims of child pornography.

(Sec. 105) This section provides for the forfeiture of real or personal property that was involved in the commission of human trafficking crimes. (Currently, forfeiture is allowed if the property was used or intended to be used to commit such crimes.) DOJ must transfer assets that are forfeited to satisfy victim restitution orders arising from human trafficking crimes.

(Sec. 106) This section expands DOJ authority to intercept wire, oral, or electronic communications to include investigations of offenses relating to peonage, involuntary servitude, forced labor, and trafficking.

(Sec. 107) This section amends the Omnibus Crime Control and Safe Streets Act of 1968 to classify severe forms of trafficking in persons as a part I violent crime for purposes of allocating grant funds among states under the Edward Byrne Memorial Justice Assistance Grant Program.

(Sec. 108) This section provides for the prosecution of individuals who patronize or solicit persons for a commercial sex act, thus making traffickers and buyers equally culpable for sex trafficking offenses.

(Sec. 109) This section expresses the sense of Congress with respect to the criminal liability of buyers of commercial sex acts in sex trafficking prosecutions.

(Sec. 110) This section requires DOJ to ensure that: (1) all task forces and working groups within the Innocence Lost National Initiative engage in activities, programs, or operations to increase the investigative capabilities of state and local law enforcement officers in detecting, investigating, and prosecuting persons who

patronize or solicit children for sex; and (2) all components and task forces with jurisdiction to detect, investigate, and prosecute cases of child labor trafficking engage in activities, programs, or operations to increase the capacity of such components to deter and punish child labor trafficking.

(Sec. 111) This section classifies producers of child pornography as traffickers engaged in illicit sexual conduct.

The evidentiary burden on the defense, in prosecutions for transporting minors to engage in illicit sexual conduct, to show that an accused reasonably believed that the minor had attained the age of 18 years is increased from a preponderance of the evidence to clear and convincing evidence.

(Sec. 112) This section classifies crimes involving peonage, slavery, and trafficking in persons as crimes of violence under the federal criminal code.

(Sec. 113) This section expands crime victims' rights by requiring notice of the right: (1) to be informed in a timely manner of any plea bargain or deferred prosecution agreement, and (2) to be informed of rights and services described in the Victims' Rights and Restitution Act of 1990 and contact information for the Office of the DOJ Victims' Rights Ombudsman. Appellate courts must apply ordinary standards of appellate review in reviewing appeals filed by crime victims.

Combat Human Trafficking Act of 2015

(Sec. 114) This section requires DOJ to ensure that each DOJ anti-human trafficking program includes technical training on: (1) effective methods for investigating and prosecuting persons who obtain, patronize, or solicit commercial sex acts involving a person subject to severe forms of trafficking in persons (buyers); and (2) facilitating the provision of physical and mental health services to persons subject to severe forms of trafficking in persons. The Bureau of Justice Statistics of DOJ is required to prepare and submit annual reports on state enforcement of human trafficking prohibitions.

Survivors of Human Trafficking Empowerment Act

(Sec. 115) This section establishes the United States Advisory Council on Human Trafficking to provide advice and recommendations to the Senior Policy Operating Group established under the Trafficking Victims Protection Act of 2000 and the President's Interagency Task Force to Monitor and Combat Trafficking. The Advisory Council terminates on September 30, 2020.

Bringing Missing Children Home Act

(Sec. 116) This section amends the Crime Control Act of 1990 to: (1) require state reports on missing children to include a recent photograph of the missing child (if available), (2) reduce from 60 days to 30 days the period for verifying and updating

records on missing children in a state law enforcement system and in National Crime Information Center computer networks, (3) require notification to the National Center for Missing and Exploited Children of each report received of a child reported missing from a foster care family home or childcare institution, and (4) grant permission to the National Crime Information Center Terminal Contractor to update the missing person record in the National Crime Information Center computer networks with additional information obtained from missing person investigations.

(Sec. 117) This section requires the DOJ Inspector General to conduct annual audits of grant recipients under the Trafficking Victims Protection Reauthorization Act of 2005 to prevent waste, fraud, and abuse of funds. DOJ is prohibited from awarding a grant to a nonprofit organization that holds money in offshore accounts for tax avoidance purposes.

The bill imposes restrictions and reporting requirements on DOJ conferences that use more than \$20,000 in DOJ funds and prohibits grant recipients from lobbying any representative of DOJ or a state, local, or tribal government regarding the award of grant funding.

Stop Advertising Victims of Exploitation Act of 2015 or the SAVE Act of 2015

(Sec. 118) This bill amends the federal criminal code to prohibit knowingly: (1) advertising commercial sex acts involving a minor or an individual engaged in such an act through force, fraud, or coercion; or (2) benefitting financially or otherwise from such advertising knowing that the individual involved was a minor or victim of force, fraud, or coercion.

(Sec. 119) DOJ must make available on the website of the Office of Juvenile Justice and Delinquency Prevention a database for trafficking victim advocates, crisis hotline personnel, foster parents, law enforcement personnel, and crime survivors that contains information on counseling and hotline resources, housing resources, legal assistance, and other services for trafficking survivors.

(Sec. 120) This section extends the statute of limitations for civil actions against perpetrators of human trafficking offenses until ten years after the victim reaches age 18.

(Sec. 121) The General Accountability Office (GAO) must: (1) conduct a study on each program or initiative authorized under this Act and other specified anti-trafficking Acts to determine whether any program or initiative is duplicative, and (2) submit a report to Congress on such study.

TITLE II--COMBATING HUMAN TRAFFICKING

Subtitle A--Enhancing Services for Runaway and Homeless Victims of Youth Trafficking

(Sec. 201) This subtitle amends the Runaway and Homeless Youth Act to include within criteria for awarding grants for services to runaway and homeless youth whether such youth have been subject to severe forms of trafficking in persons or sex trafficking as defined in the Trafficking Victims Protection Act of 2000.

Subtitle B--Improving the Response to Victims of Child Sex Trafficking

(Sec. 211) This subtitle amends the Missing Children's Assistance Act to confirm that the cyber tipline for reporting internet-related child sexual exploitation includes child prostitution as a form of child sex trafficking.

Subtitle C--Interagency Task Force to Monitor and Combat Trafficking

(Sec. 222) The Interagency Task Force to Monitor and Combat Trafficking established under the Trafficking Victims Protection Act of 2000 shall conduct a review of research and academic literature on trafficking in persons in the United States and make such review publicly available in an electronic format.

(Sec. 223) The GAO shall submit a report to Congress, one year after the enactment of this Act, that includes information on: (1) the efforts of federal and state law enforcement agencies to combat human trafficking in the United States, and (2) each federal grant program for combatting human trafficking or assisting victims of trafficking.

(Sec. 224) DOJ is authorized to provide housing to victims of trafficking under the grant program for assistance to trafficking victims in the United States and other countries.

Subtitle D--Expanded Training

(Sec. 231) This section amends the Trafficking Protection Act of 2000 to require training for federal government personnel related to trafficking in persons to include: (1) a distance learning course on trafficking-in-persons issues and the Department of State's obligations under such Act, designed for embassy reporting officers, regional bureaus' trafficking-in-persons coordinators, and their superiors; (2) specific trafficking-in-persons briefings for all ambassadors and deputy chiefs of mission before they depart for their posts; and (3) at least annual reminders to all such personnel and other federal personnel at each diplomatic or consular post outside the United States of key problems, threats, methods, and warning signs of trafficking in persons specific to the country of jurisdiction in which such post is located and appropriate procedures to report information acquired about possible trafficking cases.

TITLE III--HERO ACT

Human Exploitation Rescue Operations Act of 2015 or the HERO Act of 2015

(Sec. 302) This title amends the Homeland Security Act of 2002 to direct the Department of Homeland Security (DHS) to operate, within U.S. Immigration and Customs Enforcement (ICE), a Cyber Crimes Center to provide investigative assistance, training, and equipment to support domestic and international investigations by ICE of cyber-related crimes.

Within the Cyber Crimes Center, DHS shall operate a Child Exploitation Investigations Unit (CEIU), which shall:

- coordinate all ICE child exploitation initiatives, including investigations into child exploitation, child pornography, child victim identification, traveling child sex offenders, and forced child labor, including the sexual exploitation of minors;
- focus on child exploitation prevention, investigative capacity building, enforcement operations, and training for law enforcement personnel;
- provide training and technical expertise to cooperating law enforcement agencies and personnel;
- provide psychological support and counseling services for ICE personnel engaged in child exploitation prevention initiatives;
- collaborate with the Department of Defense (DOD) and the National Association to Protect Children to recruit, train, equip, and hire wounded, ill, and injured veterans and transitioning service members through the Human Exploitation Rescue Operative (HERO) Child Rescue Corps program;
- collaborate with other governmental and nongovernmental entities for the sponsorship of, and participation in, outreach and training activities; and
- collect and maintain data on the total number of suspects identified by ICE, the number of arrests and cases opened for investigation by ICE, and the number of cases resulting in prosecution and report on such data.

DHS shall operate, within the Cyber Crimes Center, a Computer Forensics Unit (CFU). The CFU is directed to: (1) provide training and technical support in digital forensics to ICE personnel and other law enforcement personnel investigating crimes; (2) provide computer hardware, software, and forensic licenses for all computer forensics personnel within ICE; (3) participate in research and development in the area of digital forensics; and (4) collaborate with DOD and the National Association to Protect Children to recruit, train, equip, and hire wounded, ill, and injured veterans and transitioning service members through the Human Exploitation Rescue Operative (HERO) Child Rescue Corps program.

DHS shall also operate, within the Cyber Crimes Center, a Cyber Crimes Unit (CCU). The CCU shall: (1) oversee the cyber security strategy and cyber-related operations and programs for ICE, (2) enhance the ability of ICE to combat criminal enterprises operating on or through the Internet, (3) provide training and technical support in cyber investigations to ICE personnel and other law enforcement personnel, (4) participate in research and development in the area of cyber investigations, and (5) recruit participants in the Human Exploitation Rescue Operative (HERO) Child Rescue Corps program for investigative and forensic positions.

Congress declares that Homeland Security Investigations of ICE should hire, recruit, train, and equipment wounded, ill, or injured military veterans who are affiliated with the HERO Child Rescue Corps program for investigative, intelligence, analyst, and forensic positions.

This section further amends the Homeland Security Act of 2002 to expand the purposes of the DHS Acceleration Fund for Research and Development of Homeland Security Technologies to include conducting research and development to advance technology for the investigation of child exploitation crimes, including child victim identification, trafficking in persons, child pornography, and for advanced forensics.

(Sec. 303) This section amends the federal criminal code to impose a fine and/or prison term of up to 10 years on anyone who knowingly transports any individual with the intent that such individual engage in prostitution or in any criminal sexual activity. DOJ must grant the request by a state attorney general for designation of a state or local attorney to prosecute a violation of such an offense unless DOJ determines that granting such request would undermine the administration of justice.

TITLE IV--RAPE SURVIVOR CHILD CUSTODY

Rape Survivor Child Custody Act

(Sec. 404) This title directs DOJ to increase grant funding to states that have in place a law that allows the mother of any child that was conceived through rape to seek court-ordered termination of the parental rights of her rapist with regard to that child, which the court is authorized to grant upon clear and convincing evidence of rape. Authorizations of appropriations are provided in FY2015-FY2019 to cover such increases.

TITLE V--MILITARY SEX OFFENDER REPORTING

Military Sex Offender Reporting Act of 2015

(Sec. 502) This title amends the Sex Offender Registration and Notification Act to direct DOD to provide DOJ with sex offender registration information, to be included in the National Sex Offender Registry and the Dru Sjodin National Sex Offender Public Website, regarding persons who are required to register under such Act and who are: (1) released from military corrections facilities, or (2) convicted if the sentences adjudged by courts-martial under the Uniform Code of Military Justice do not include confinement.

TITLE VI--STOPPING EXPLOITATION THROUGH TRAFFICKING

(Sec. 601) This section amends the Omnibus Crime Control and Safe Streets Act of 1968 to authorize DOJ to give preferential consideration in awarding public safety and community-oriented policing grants to an application from an applicant in a

state that has in effect a law that: (1) treats a minor who has engaged in, or has attempted to engage in, a commercial sex act as a victim of a severe form of trafficking in persons; (2) discourages or prohibits the charging or prosecution of such individual for a prostitution or sex trafficking offense based on such conduct; and (3) encourages the diversion of such an individual to appropriate service providers, including child welfare services, victim treatment programs, child advocacy centers, rape crisis centers, or other social services.

(Sec. 602) This section amends the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA) to require DOJ's annual report on federal agencies that are implementing provisions relating to the Interagency Task Force to Monitor and Combat Trafficking to include information on the activities of such agencies, in cooperation with state, tribal, and local law enforcement officials, to identify, investigate, and prosecute: (1) sex trafficking by force, fraud, or coercion or with a minor; (2) sexual exploitation of children; (3) the selling and buying of children; (4) transportation with intent that the victim engage in illegal sexual activity; (5) coercion or enticement to travel for illegal sexual activity; and (6) transportation of minors for illegal sexual activity.

(Sec. 603) This section further amends VTVPA to require HHS, annually beginning in FY2017, to make grants for a national communication system to assist victims of severe forms of trafficking in persons in communicating with service providers.

(Sec. 604) This section amends the Workforce Innovation and Opportunity Act to include victims of a severe form of trafficking in persons among those eligible for the Job Corps without being required to demonstrate low-income eligibility.

(Sec. 605) This section amends the federal judicial code to authorize the United States Marshals Service to assist state, local, and other federal law enforcement agencies, upon request, in locating and recovering missing children.

(Sec. 606) This section requires DOJ to implement and maintain a National Strategy for Combating Human Trafficking, which shall include: (1) integrated federal, state, local, and tribal efforts to investigate and prosecute human trafficking cases; (2) case coordination with DOJ on human trafficking investigations among the U.S. Attorneys, relevant DOJ departments, and the Federal Bureau of Investigation; and (3) annual budget priorities and federal efforts dedicated to preventing and combating human trafficking.

TITLE VII--TRAFFICKING AWARENESS TRAINING FOR HEALTH CARE

Trafficking Awareness Training for Health Care Act of 2015

(Sec. 702) This title requires the Health Resources and Services Administration of HHS to award a grant or contract to an accredited school of medicine or nursing with experience in the study or treatment of victims of a severe form of trafficking to train health care professionals to recognize and respond to trafficking victims.

Grantees must: (1) develop evidence-based best practices for health care professionals to recognize and respond to victims of a severe form of trafficking, (2) design and implement a pilot program to test the best practices and educational material developed to identify victims of human trafficking by health care professionals, and (3) analyze and report on the pilot program.

HHS must disseminate and post on its website evidence-based best practices identified by the pilot program as effective in recognizing potential victims of a severe form of human trafficking.

(Sec. 704) This section prohibits the authorization of additional funds to carry out this title.

TITLE VIII--BETTER RESPONSE FOR VICTIMS OF CHILD SEX TRAFFICKING

Ensuring a Better Response for Victims of Child Sex Trafficking

(Sec. 802) This title amends the Child Abuse Prevention and Treatment Act to require a state plan for its child protective services system to include a certified assurance that the state has in effect and is enforcing a law requiring: (1) identification and assessment of all reports involving children known or suspected to be victims of sex trafficking; and (2) training child protective services workers in identifying, assessing, and providing comprehensive services for children who are sex trafficking victims.

Each state receiving a grant must work with HHS to make an annual data report that includes the number of children determined to be victims of sex trafficking. A child is considered to be a victim of "child abuse and neglect" and of "sexual abuse" if the child is identified by a state or local agency employee as being a victim of sex trafficking or a victim of severe forms of trafficking in persons. A state is given the option to define "child" under such Act as a person who has not attained age 24.

TITLE IX--ANTI-TRAFFICKING TRAINING FOR DEPARTMENT OF HOMELAND SECURITY PERSONNEL

(Sec. 902) This title requires DHS to implement a program to: (1) train and periodically retrain relevant personnel in the Transportation Security Administration and the U.S. Customs and Border Protection and other DHS personnel on how to effectively deter, detect, and disrupt human trafficking; and (2) ensure that such personnel regularly receive current information on matters related to the detection of human trafficking. DHS must certify to Congress that all such personnel have successfully completed required training.

(Sec. 904) DHS may provide training to assist any state, local, or tribal government or private organization in establishing a program of training to identify human trafficking.

(Sec. 905) This section expands the purposes for which funds from the Domestic Trafficking Victims' Fund may be used to include grant funding for state and local Internet Crimes Against Children Task Forces to combat child exploitation.

TITLE X--HUMAN TRAFFICKING SURVIVORS RELIEF AND EMPOWERMENT ACT

Human Trafficking Survivors Relief and Empowerment Act of 2015

(Sec. 1002) This title sets forth additional criteria for granting preferential consideration of grant applications under the public safety and community-oriented policing grant program of the Omnibus Crime Control and Safe Streets Act of 1968 by granting preference to applicants from states that have in effect a law that: (1) provides a process by which a human trafficking survivor can move to vacate any arrest or conviction records for a non-violent offense committed as a direct result of human trafficking, including prostitution or lewdness; (2) establishes a rebuttable presumption that any arrest or conviction of an individual for a human trafficking offense is a result of being trafficked if such individual has been granted nonimmigrant status as a victim of a severe form of trafficking in persons, is certified by HHS as a victim of a severe form of trafficking in persons under the Trafficking Victims Protection Act of 2000, or has other similar documentation of trafficking; (3) protects the identify of individuals who are human trafficking survivors in public and court records; and (4) does not require an individual who is a human trafficking survivor to provide official documentation in order to receive protection under the law.

Resolution No. 26

Submitted by:

The Honorable Karen Freeman-Wilson, Mayor of Gary

The Honorable Stephanie Rawlings-Blake, Mayor of Baltimore

REFORMING FEDERAL CIVIL ASSET FORFEITURE

1. **WHEREAS**, the objective of civil asset forfeiture is to take profits away from criminals and seizing the assets of criminal activity is one of the most effective ways to prevent crime and protect the public; and
2. **WHEREAS**, through the Federal Equitable Sharing Program, a part of the federal civil asset sharing system, the U.S. Department of Justice distributes an equitable share of forfeited property and proceeds to participating state and local law enforcement agencies that directly participate in an investigation or prosecution that result in a federal forfeiture; and
3. **WHEREAS**, critics have suggested that local law enforcement agencies sometimes seize assets merely to augment their own budgets and resources; and
4. **WHEREAS**, In January the Attorney General announced changes to the Justice Department's civil asset forfeiture policies that would eliminate the ability of state and local law enforcement to seize assets and turn them over to federal authorities for forfeiture, with some exceptions; and
5. **WHEREAS**, Congress is now considering legislation that would make major changes in the federal civil asset forfeiture system, including elimination of the Equitable Sharing Program; and
6. **WHEREAS**, while clearly reform of the civil asset forfeiture system is needed to end any possible abuses and ensure public and Congressional confidence in law enforcement, ending the equitable sharing program would place a heavy fiscal burden on participating local and state law enforcement agencies and likely end their involvement in the joint efforts,
7. **NOW, THEREFORE, BE IT RESOLVED**, that The United States Conference of Mayors calls for reform of the civil asset forfeiture system, but opposes the end of the Equitable Sharing Program; and
8. **BE IT FURTHER RESOLVED**, The United States Conference of Mayors supports the reforms jointly proposed by the International Association of Chiefs of Police, the Major Cities Chiefs Association, the National Sheriff's Association, and the Major County Sheriff's Association, and agreed to by the National District Attorney's Association –

reforms which are intended to help provide clarity and higher accountability while also ensuring the ability for law enforcement to impact criminal enterprises; and

9. **BE IT FURTHER RESOLVED**, The United States Conference of Mayors joins these major law enforcement organizations in calling on the Department of Justice to promulgate formal regulations that will establish clear and specific requirements for all law enforcement agencies in the United States who apply for Federal civil asset forfeiture based on the following principles:

- Crime Prevention Purpose;
- Tougher Process to Prevent Abuse;
- Sworn Statement Under Penalty of Perjury;
- Establish Criminal Nexus;
- Multiple New Requirements;
- Individual Rights and Due Process; and
- Transparency.

Projected Cost: Unknown

**International Association of Chiefs of Police
Major Cities Chiefs Association
Major County Sheriffs Association
National Sheriffs Association**

Proposed Reforms for Federal Civil Asset Forfeiture

Seizing the assets of criminal activity is one of the most effective ways to prevent crime and protect the public we serve. While the objective of civil seizure is to take profits away from criminals, critics have suggested that police and sheriffs sometimes seize assets merely to augment their own budgets and resources. While cases that abuse current guidelines may be rare, we agree that the time has come for comprehensive reform of the forfeiture process, to ensure public and Congressional confidence in law enforcement.

The purpose of this document is to help provide clarity and higher accountability while also ensuring the ability for law enforcement to impact criminal enterprises. Criminal organizations have long adapted to changes in law enforcement techniques and methodology. While considering the presented options we must also consider the effects of our decisions and how it may enable criminal organizations to further their operations, ultimately the right balance must be found.

To confirm our commitment to integrity, State and local law enforcement agencies seek to fully realize the intent of the Civil Asset Forfeiture Reform Act (CAFRA) by implementing these new requirements. Rather than broad guidelines which may permit wide variations in policies and practices, Chiefs and Sheriffs propose that the Department of Justice promulgate formal regulations that will establish clear and specific requirements for all law enforcement agencies in the United States who apply for Federal civil asset forfeiture.

These proposed measures have been adopted by the Major Cities Chiefs; Major County Sheriffs; the International Association of Chiefs of Police; and the National Sheriffs Association:

- **_Crime Prevention is the Purpose of the Program:** In the past, civil forfeiture has been employed for any and all offense types. Adoption cases should be limited to serious crime, drug trafficking, major dealers, human trafficking and other threats to public safety. Cases no longer accepted for administrative adoption may be referred to a Federal Magistrate for issuance of a seizure warrant.
- **_Terrorism**
- **_Firearms**
- **_Drug Trafficking Organizations**
- **_Major Drug Dealers**
- **_Gangs**
- **_Human Trafficking / Prostitution**
- **_Cyber Crime and Child Pornography**
- **_Weapons used in crimes**
- **_White Collar Crime**
- **_Tougher Process to Prevent Abuse:** Current Federal Guidelines are very limited and overly broad. To ensure public greater confidence and prevent potential abuse, law enforcement recommends that the process should be more formal and detailed.
- **_DOJ should develop and promulgate a Civil Asset Seizure Manual comparable to the material published by DEA in the agents' manual.**
- **_DOJ should require each participating agency to develop and submit a formal procedures manual that complies with the intent and letter of CAFRA.**
- **_Applicant agencies should submit certification of training that includes ethics.**
- **_The Department of Justice should establish strict standards for asset forfeiture training.**

- **The Department of Justice should make training available online or through approved providers to end users.**

- **Sworn Statement Under Penalty of Perjury:** New regulations should include an affidavit of facts or a sworn statement, not currently required by the Department of Justice.

- Law enforcement personnel should swear a statement of probable cause.

- Law enforcement personnel should file the statement at the beginning of the process but not later than with the DAG 71 application.

- The sworn statement of probable cause should be supported with other evidence (search warrants, subpoenas etc.)

- **Establish Criminal Nexus:** DOJ does not currently require sworn evidence of a clear nexus to criminal activity for civil adoption cases, hence public criticism that property is seized from innocent owners without due process.

- The sworn statement must establish criminal activity under State law and cite specific sections.

- Statement and report, including forensics, must connect asset to listed crime.

- Statement and report must signed be under oath by officer/deputy.

- **Multiple New Requirements:** Law enforcement recommends that new, additional steps and requirements should be added to Federal Regulations.

- The minimums for adoption cases should be raised to \$10,000 where there is no arrest, allowing for exceptions with Federal approval for cases that target criminal organizations and repeat offenders.

- Allow for temporary seizure while search warrants and forensics are pending to establish criminal nexus.

- Regulations, procedures manual and training should articulate criteria for temporary seizures during investigation to establish a criminal nexus.

- **Individual Rights and Due Process:** Concerns have been expressed that current Federal Guidelines do not adequately ensure due process for owners of assets subject to civil seizure and forfeiture.

- New regulations should require participating agencies to provide an informational Notice of Seizure and Petition Rights that includes explanation of the process for return of property.

- Persons who exercise their right to petition for return of property where there is no prosecution must have their request adjudicated within 120 days.

- It is recommended that local jurisdictions consider an independent panel for adoption cases not referred to the Federal Magistrate. This can be accomplished through a secure portal and performed remotely.

- **Transparency:** The Department of Justice should require new reporting requirements open to public inspection.

- The Department of Justice should require participating agencies to publish annual reports for public inspection or enhance annual reporting through the current equitable sharing annual reporting program.

- Criteria and procedures for adoption cases should be fully disclosed and published.

- Create limited public reporting of specific assets seized showing detail on seizures, with exceptions for ongoing investigations, sealed evidence, privacy rights and confidential enforcement technology/investigative resources.

**International Association of Chiefs of Police
Major Cities Chiefs Association
Major County Sheriffs Association
National Sheriffs Association**

January 14, 2015

The Honorable Eric H. Holder
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Attorney General Holder:

You have received a letter from members of Congress that questions current policies relating to civil asset forfeiture and calls for the elimination of adoptive seizures. We urge you to proceed with caution before ending thousands of State and local forfeiture cases which the letter describes as “a valuable tool in combatting serious wrongdoing.” To terminate all adoptive cases for law enforcement agencies across the Nation without further documentation and a report would be a disservice to the public we are sworn to protect.

While the letter rightly notes that there “may” be abuse of the Equitable Sharing Program, there has been no report or documentation by the Department of Justice or any other agency to suggest that such cases represent widespread institutional abuse. These examples suggest that the program should be strengthened and reformed to ensure reasonable and ethical practices, but there is no evidence to warrant its complete elimination.

We call upon the Department of Justice to conduct a critical review of civil asset forfeiture and present a detailed report to document needed reforms. To this end, Chiefs and Sheriffs have already developed an agenda for comprehensive reform, as outlined in the attached proposal. We challenge the Department of Justice to implement these long overdue measures, rather than to arbitrarily wipe out a valuable program without any further consideration.

Our proposed reforms would impose many new requirements such as sworn statements under penalty of perjury and evidence of a criminal nexus, as well as further measures to ensure the integrity of the Equitable Sharing Program.

Adoptive forfeitures can be preserved with new safeguards and specific crime categories. For example, we trust that the Congress calling for stronger border security would not want to terminate the program which permits State and local law enforcement to seize the assets of criminal organizations operating along our borders. Not even a harsh critic would ask us to return assets used for drug smuggling and human trafficking.

Surely the Department of Justice will join with us to strengthen civil asset forfeiture procedures and not merely react to press and rhetoric calling for termination of adoptive cases. We owe this much to the public we serve.

Sincerely,
Chief Richard Beary
President,
International Association of Chiefs of Police

J. Thomas Manger
Chief of Police
Montgomery County Police Department
President,
Major Cities Chiefs Association

Donny Youngblood
Sheriff-Coroner, Kern County, CA
President
Major County Sheriffs' Association

Sheriff John E. Aubrey
Jefferson County Sheriff's Office
President
National Sheriffs Association

Resolution No. 27

Submitted by:

The Honorable Elizabeth B. Kautz, Mayor of Burnsville
The Honorable Karen Freeman-Wilson, Mayor of Gary
The Honorable Nancy Tyra-Lukens, Mayor of Eden Prairie
The Honorable Eric Garcetti, Mayor of Los Angeles
The Honorable Annise D. Parker, Mayor of Houston

COMBATTING VIOLENT EXTREMISM IN THE UNITED STATES

1. **WHEREAS**, In August 2011, the White House released the first national strategy to prevent violent extremism domestically, and the underlying premise of its approach to countering violent extremism in the United States is that communities provide the solution to violent extremism and efforts to counter violent extremism are best pursued at the local level, tailored to local dynamics, where local officials continue to build relationships within their communities through established community policing and community outreach mechanisms; and
2. **WHEREAS**, that strategy also calls for empowering community efforts to disrupt the radicalization process before an individual engages in criminal activity; and
3. **WHEREAS**, top national security officials from both the Department of Homeland Security and the Justice Department advised the mayors during the Conference's 2015 Winter Meeting that the current threat environment is serious and emphasized that local officials and law enforcement are absolutely critical to identifying domestic terror threats and deterring incidents; and
4. **WHEREAS**, the current suite of homeland security grant programs provides vital resources to local agencies that helps them to do this, particularly the 25 percent set aside for law enforcement terrorism prevention in the two largest programs, but in its last four budget proposals, the Obama Administration has proposed to consolidate these programs into a National Preparedness Grant Program -- state-administered block and competitive grant programs in which funding decisions are based on state and multistate threat assessments; and
5. **WHEREAS**, the Conference has been leading a coalition of 16 national organizations representing local elected officials, emergency managers, homeland security administrators, port operators, transit operators, police chiefs, sheriffs, and the fire service that has been successful thus far in working with Congress to stop this consolidation by registering the strong support of the organizations for the existing menu of homeland security grant programs and their deep concerns with the NPGP proposal; and

6. **WHEREAS**, current and potential Justice Department resources, including the COPS Hiring Program and the funding requested by the President in his FY 2016 budget for the Justice Department to support community-led efforts to build resilience and counter violent extremism, can provide vital assistance to local officials and law enforcement in their efforts to counter violent extremism,
7. **NOW, THEREFORE, BE IT RESOLVED**, that The United States Conference of Mayors applauds the Administration's recognition that local officials and law enforcement are critical to the nation's efforts to preventing terrorist acts within the United States and urges the Administration to expand its efforts to work with local officials to prevent domestic terrorism and reduce violent extremism; and
8. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors again registers its strong opposition to consolidating the current suite of homeland security grant programs into a single National Preparedness Grant Program and instead urges the Administration and Congress to increase funding for these programs to strengthen the ability of local officials to prevent violent extremism; and
9. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors also calls for expansion of Justice Department grant programs, including COPS Hiring Grants, which can contribute to this mission.

Projected Cost: Unknown

The White House

Office of the Press Secretary
For Immediate Release

February 18, 2015

FACT SHEET: The White House Summit on Countering Violent Extremism

This week, the White House is convening a three-day summit on Countering Violent Extremism (CVE) to bring together local, federal, and international leaders – including President Obama and foreign ministers – to discuss concrete steps the United States and its partners can take to develop community-oriented approaches to counter hateful extremist ideologies that radicalize, recruit or incite to violence. Violent extremist threats can come from a range of groups and individuals, including domestic terrorists and homegrown violent extremists in the United States, as well as terrorist groups like al-Qaeda and ISIL.

Understanding “Countering Violent Extremism”

CVE encompasses the preventative aspects of counterterrorism as well as interventions to undermine the attraction of extremist movements and ideologies that seek to promote violence. CVE efforts address the root causes of extremism through community engagement, including the following programs:

- **Building awareness**—including briefings on the drivers and indicators of radicalization and recruitment to violence;
- **Countering extremist narratives**—directly addressing and countering violent extremist recruitment narratives, such as encouraging civil society-led counter narratives online; and
- **Emphasizing Community Led Intervention**—empowering community efforts to disrupt the radicalization process before an individual engages in criminal activity.

U.S. Government Policy to Counter Violent Extremism Here at Home

In August 2011, the White House released *Empowering Local Partners to Prevent Violent Extremism in the United States*, the first national strategy to prevent violent extremism domestically. The underlying premise of the approach to countering violent extremism in the United States is that (1) communities provide the solution to violent extremism; and (2) CVE efforts are best pursued at the local level, tailored to local dynamics, where local officials continue to build relationships within their communities through established community policing and community outreach mechanisms. The Federal Government’s most effective role in strengthening community partnerships and preventing violent extremism is as a facilitator, convener, and source of research and findings.

Since the release of the Strategy, local governments and communities around the United States have developed prevention frameworks that address the unique issues facing their local communities. Three cities—**Greater Boston, Los Angeles, and the Twin Cities**—with the leadership of representatives from the Federal Government, have created pilot programs to foster partnerships between local government, law enforcement, mayor’s offices, the private

sector, local service providers, academia, and many others who can help prevent violent extremism. Federal departments and agencies have begun expanding support to local stakeholders and practitioners who are on the ground serving their communities. Each city created an action plan tailored to addressing the root causes and community needs they identified. The pilot framework developed by these three cities emphasizes the strength of local communities with the premise that well-informed and well-equipped families, communities, and local institutions represent the best defense against violent extremist ideologies and offers three overarching components.

The Federal Government is supporting these efforts in a number of important ways. In conjunction with the Summit, we are announcing new steps to advance our whole-of-nation CVE efforts, including by:

- Appointing the first-ever senior level, full-time CVE Coordinator at the Department of Homeland Security (DHS);
- Establishing, in partnership with the City of Los Angeles, the Los Angeles-based Office for Strategic Engagement and committed on-the-ground dedicated staff to facilitate information sharing, engagement with local partners, strengthening of community and law enforcement partnerships, and the local establishment of prevention and intervention frameworks. Due to the successes in Los Angeles, DHS on-the-ground engagement staff will be expanded in 2015 to Boston and other municipalities across the country;
- Seeking \$15 million in appropriated funding for the Department of Justice (DOJ) to support community-led efforts to build resilience and counter violent extremism in the President's Budget for Fiscal Year 2016;
- Awarding nearly \$3.5 million in National Institute of Justice research and evaluation grants to address domestic radicalization to violent extremism for the third year;
- Leading a workshop with the creative arts community and community leaders in Los Angeles to develop innovative, scalable and implementable programs and tools to counter violent extremism. In 2015, these new programs and tools will include film training for disadvantaged youth and a "CVE Hub" that will be a non-governmental organization to connect, network, organize, and drive community groups, funders, academics, and the tech sector towards long-term, sustainable, creative, and nimble solutions for domestic CVE;
- Sponsoring a joint DHS and DOJ symposium for local partners to collaborate and share best practices on intervention and prevention framework development and implementation in 2015; and
- Joining Canada and the United Kingdom to bring together researchers from four robust and comprehensive research programs to deliver practical, timely and plainspoken results to practitioners. This international compilation will ensure the best results are validated and shared with those who need them most.

U.S. Government Policy to Counter Violent Extremism Globally

The United Nations General Assembly (UNGA): At the United Nations in September 2014, President Obama called on member nations to do more to address violent extremism within their regions. He also asked that they return in 2015 with concrete steps taken to address "the underlying grievances and conflicts that feed extremism." The White House Summit on Countering Violent Extremism is the first of many events leading up to UNGA in September

2015, through which the United States and its partners will develop actions to counter the most immediate threats, including ISIL, and stop the spread of violent extremism.

Ministers from nearly 70 countries, the UN Secretary-General, senior officials from other multilateral bodies, and representatives from civil society and the private sector will gather during the Ministerial segments of the Summit to develop a comprehensive action plan against violent extremism. They will also chart a path for progress that will include regional summits, aimed at taking concrete steps to prevent violent extremism in the lead up to UNGA 2015. This week's Summit offers an opportunity to approach CVE in a comprehensive way and build upon the framework of the UN Global Counter-Terrorism Strategy, which encourages the UN and other multilateral bodies to intensify efforts to identify and address the local drivers of violent extremism.

Focusing on Foreign Fighter Recruitment: CVE is also a key component of the U.S. Government's strategy to combat foreign terrorist fighters. Internationally, there is an unprecedented flow of foreign terrorist fighters to Syria and Iraq, with more than 20,000 foreign fighters from more than 90 nations traveling to Syria since the beginning of the conflict, including at least 3,400 from the West.

To complement the CVE discussions to prevent terrorist and other extremist recruitment and radicalization and implement other aspects of UN Security Council Resolution 2178, the Resolution that emerged from the Security Council session President Obama chaired last year, the Department of State is hosting an Information Sharing Ministerial on the margins of the Summit. The Ministerial is focusing on actionable steps to disrupt foreign terrorist fighters travel to and from conflict zones.

Additionally, the United States next week will host the Global Counterterrorism Forum's Foreign Terrorist Fighter Working Group workshop "Raising Community Awareness to Address the Foreign Terrorist Fighter Phenomenon" to focus on ways in which communities and governments can develop specific programs and efforts to address the issue of foreign terrorist fighters.

Widening the Global Base of CVE Stakeholders

Social Media Solutions: The U.S. Government, in partnership with foreign governments, civil society, and the private sector, is working to weaken the legitimacy and resonance of violent extremist messaging and narratives, including through social media. The Summit will identify concrete ways to build upon ongoing initiatives aimed at countering extremists' perverse message and new and innovative solutions to the challenges posed by violent extremists, especially online. For example:

- The United States is partnering with the United Arab Emirates to establish a digital communications hub that will counter ISIL's propaganda and recruitment efforts, both directly and through engagement with civil society, community, and religious leaders.
- The State Department is launching a Peer-to-Peer Challenge to empower university students in the United States, Canada, North Africa, Middle East, Europe, Australia, and Asia to develop digital content that counters violent extremist messaging.
- The United States and our partners in the private sector are organizing multiple "technology camps" in the coming months, in which social media companies will work with governments,

civil society, and religious leaders to develop digital content that discredits violent extremist narratives and amplifies positive alternatives. The Summit will provide an opportunity to explore further collaboration with the information technology industry on empowering moderate voices and undermining violent extremists.

- The United States has designated a Special Envoy for Strategic Counterterrorism Communications at the Department of State to drive U.S. Government efforts aimed at discrediting terrorists' propaganda and degrading their ability to disseminate messages and recruit fighters, with a particular focus on ISIL.

Religious Leaders and Faith Community Engagement: The United States works with religious leaders and faith communities around the world to address both religious and non-religious causes of violence and extremism, including by working with religious leaders on projects emphasizing peace, tolerance, and coexistence at the community level and training religious leaders on outreach to at-risk youth.

Civil Society: In September 2013, President Obama launched *Stand with Civil Society*, a global call to action to support, defend, and sustain civil society. Working in partnership with other governments, the philanthropic community, and multilateral initiatives, the United States is fostering supportive and permissive environments in support of a vibrant civil society and identifying innovative ways to inject technical, financial, and logistical support into this space. The Summit will explore opportunities for civil society to be a still more active partner in efforts to build local partnerships against violent extremism.

Youth Engagement: The United States is supporting young leaders in the Middle East and North Africa, Sub-Saharan Africa and Southeast Asia, including through projects that provide youth a sense of belonging, as well as technical skills and vocational training, scholarships, opportunities for civic engagement, and leadership training. As part of these efforts, the United States trains, mentors, and provides seed funding to young leaders, for example, who are working to counter extremists' narratives, reintegrate former violent extremists, and promote tolerance and non-violent dispute resolution.

Department of Homeland Security

Countering Violent Extremism

The Complexity of Violent Extremism

Violent extremists are defined as “individuals who support or commit ideologically-motivated violence to further political goals.” Violent Extremist threats within the United States can come from a range of violent extremist groups and individuals, including Domestic Terrorists and Homegrown Violent Extremists (HVEs). DHS defines Domestic Terrorism as: Any act of violence that is dangerous to human life or potentially destructive of critical infrastructure or key resources committed by a group or individual based and operating entirely within the United States or its territories without direction or inspiration from a foreign terrorist group. The act is a violation of the criminal laws of the United States or of any state or other subdivision of the

United States and appears to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnapping. A domestic terrorist differs from a homegrown violent extremist in that the former is not inspired by, and does not take direction from, a foreign terrorist group or other foreign power. DHS defines a HVE as: A person of any citizenship who has lived or operated primarily in the United States or its territories who advocates, is engaged in, or is preparing to engage in ideologically-motivated terrorist activities (including providing material support to terrorism) in furtherance of political or social objectives promoted by a terrorist organization, but who is acting independently of direction by a terrorist organization.

The threat posed by violent extremism is neither constrained by international borders nor limited to any single ideology. Groups and individuals inspired by a range of personal, religious, political, or other ideological beliefs promote and use violence. Increasingly sophisticated use of the Internet, social media, and information technology by violent extremists adds an additional layer of complexity. Accordingly, DHS has designed a countering violent extremism (CVE) approach that addresses all forms of violent extremism, regardless of ideology, and that focuses not on radical thought or speech but instead on preventing violent attacks. This approach provides numerous physical and virtual environments to promote information sharing and collaboration between Federal, State, Local, Territorial, Tribal, Private, Civilian, and International entities working to counter the threat of violent extremism.

DHS Priorities for Understanding and Countering Violent Extremism

Our approach to CVE emphasizes the strength of local communities. We begin with the premise that well-informed and well-equipped families, communities, and local institutions represent the best defense against violent extremist ideologies. And while our primary purpose is to prevent attacks by individuals or groups recruited by violent extremist organizations, or inspired by violent extremist ideologies, we also support strong and resilient communities as important ends themselves.

The Department's efforts are focused on three broad objectives:

Understand Violent Extremism - Support and coordinate efforts to better understand the phenomenon of violent extremism, including assessing the threat it poses to the nation as a whole and within specific communities;

Support Local Communities - Bolster efforts to catalyze and support community-based programs, and strengthen relationships with communities that may be targeted for recruitment by violent extremists; and

Support Local Law Enforcement – Deter and disrupt recruitment or individual mobilization through support for local law enforcement programs, including information-driven, community-oriented policing efforts, which for decades have proven effective in preventing violent crime. To address these objectives, we work closely with our Federal and International partners, as well as our many partners at the Community, State, Local, Territorial, and Tribal levels across the country. We are an important partner in supporting the White House's **National Strategy on Empowering Local Partners to Prevent Violent Extremism in the United States** and the **Strategic Implementation Plan (SIP) for Empowering Local Partners to Prevent Violent**

Extremism in the United States, which President Obama released in 2011; as well as the strategy for **Implementing Recommendations of the 9/11 Commission Act of 2007**.

Supporting Local Communities

Efforts to prevent crime, and in particular violent crime, are most effective when law enforcement establishes strong and trusting partnerships with community members themselves. One important result of this is that community members will be more inclined to share suspicious information with law enforcement. As part of our effort to support local communities in countering violent extremism, DHS has launched a number of core initiatives:

DHS Outreach on CVE: In coordination with our Federal partners, DHS hosts conferences, workshops, and online forums for Federal, State, Local, Territorial, Tribal, Private Sector, Civilian community, and International partners in order to share information about CVE.

Training Initiatives: DHS, in collaboration with DOJ and State and Local law enforcement partners, has trained thousands of front line officers, first responders, and community leaders, and continues to provide CVE training to interested communities. These efforts work to improve communication, build trust, and encourage collaboration between officers and the communities they serve and protect. Training topics include effective policing without the use of ethnic or racial profiling, and best practices in community outreach.

Grants: DHS prioritizes CVE activities through grants that directly support State and Local partners and community outreach efforts to understand, recognize, report, and respond to potential indicators of terrorist activity.

Analysis and Research: DHS produces substantial analysis and research on trends in homegrown violent extremism, domestic terrorism, and terrorist propaganda to support Federal, State, Local, Territorial, and Tribal officials in identifying and mitigating violent extremist threats to the Homeland.

- Building Communities of Trust Fact Sheet
- DHS Countering Violent Extremism Training Guidance & Best Practices Pamphlet
- DHS Community Engagement Poster
- FBI's Crisis Communications Quick Reference Guide
- Joint DHS/FBI Suspicious Behavior Awareness Poster

DHS CVE Structure and Office Functions

The Department's CVE efforts have continued to adapt as the threat has evolved. Efforts have been undertaken to catalogue, coordinate, and institutionalize CVE efforts and resources across DHS. In furtherance of this, a CVE Working Group (reflecting the missions of components and equities across DHS) led by a CVE Coordinator has been formalized to oversee and coordinate all CVE activities. The Department's CVE efforts are comprehensive and fall into four function areas:

- Policy Formation and Coordination Activities
- Strategic CVE Activities (those explicitly conducted for the purpose of CVE)
- CVE Support Activities (those that aid the department and its partners in conducting their CVE missions)

- CVE-Relevant Activities (the regular activities of DHS components shaped to improve CVE or lessen the negative impact on CVE. For instance, training of screeners, better redress procedures, and proper messaging of policies that could impact communities where VE occurs.)

The CVEWG is led by the CVE Coordinator and includes participation from the Office of Civil Rights and Civil Liberties (CRCL); Office of Intelligence and Analysis (I&A), Federal Emergency Management Agency (FEMA), National Protection and Programs Directorate (NPPD), Office of Policy, Office of Privacy (PRIV), and the Office of Science and Technology (S&T). The CVEWG also has members from DHS Components, such as Customs and Border Protection (CBP), Federal Law Enforcement Training Center (FLETC), Office of the General Counsel (OGC), US Immigration and Customs Enforcement (ICE), Office of Operations Coordination and Planning (OPS), Office of Public Affairs (OPA), Transportation Security Administration (TSA), US Citizenship and Immigration Services (USCIS), US Coast Guard (USCG), and the US Secret Service (USSS).

International Partnerships

DHS works with foreign governments, international organizations, and various U.S. Embassies across the world to develop and implement CVE programs.

DHS also has CVE partnerships with the Australia, Belgium, Canada, Denmark, Germany, Netherlands, Spain, the European Union, and the UK, as well as partnerships with international law enforcement organizations such as the International Association of Chiefs of Police (IACP), Europol, the Global Counter Terrorism Forum (GCTF), and the Hedayah Center.

- DHS has developed and implemented Countering Violent Extremism (CVE) programs, such as the CVE Exchange Program. This program, in its third year, pairs two cities in the US with two in a European nation with exchange delegations representing civil society and local government exchanging operational community engagement best practices that may support CVE but also promote integration, youth empowerment, resolution of grievances, and protection of rights and liberties.
- DHS signed a U.S.-Australia Joint Statement on Countering Transnational Crime, Terrorism, and Violent Extremism in Canberra in May 2012.
- DHS, Europol, and EU partners have exchanged information on U.S. and EU information sharing and analytic best practices, CVE training standards, and research and case studies. In 2012, DHS and Europol released a joint assessment on the pathway to violence and operational planning of the terrorist responsible for the 2011 Norway attacks.
- DHS has partnered with its Canadian counterparts to share best practices and research related to CVE, produce joint analysis, and promote community-based and community driven efforts.

Submitted by:

The Honorable Marilyn Strickland, Mayor of Tacoma
The Honorable Charlie Hales, Mayor of Portland, OR
The Honorable Michael A. Nutter, Mayor of Philadelphia

IN SUPPORT OF FEMA GRANTS FOR FIREFIGHTERS

1. **WHEREAS**, nationwide, our cities seek to restore municipal services to levels seen before the economic downturn, and mayors continue to prioritize public safety and the full restoration of fire and emergency services in their local budgeting deliberations; and
2. **WHEREAS**, Congress passed the Floyd D. Spence National Defense Authorization Act and created the Assistance to Firefighters Grant (AFG) Program in 2001; and
3. **WHEREAS**, Congress enacted the Staffing for Adequate Fire and Emergency Response (SAFER) Act as part of the 2004 National Defense Authorization Act, in response to national concerns over the adequacy of firefighting staffing; and
4. **WHEREAS**, the Department of Homeland Security Federal Emergency Management Agency helps cities and communities to maintain adequate public safety services through the Assistance to Firefighters Grants (AFG) portfolio, which includes Assistance to Firefighters Grants (AFG), Fire Prevention & Safety (FP &S) Grants, and Staffing for Adequate Fire and Emergency Response (SAFER) Grants; and
5. **WHEREAS**, the AFG Program enables firefighters and first responders to obtain critically needed equipment, protective gear, emergency vehicles, training and other resources needed to protect the public and emergency personnel from fire and related hazards; and
6. **WHEREAS**, SAFER Grants help fire departments and volunteer firefighter organizations to increase the number of trained, front-line firefighters available in their communities; and
7. **WHEREAS**, FP&S Grants provide support for projects that enhance the safety of the public and firefighters from fire and related hazards; and
8. **WHEREAS**, FEMA has awarded more than \$6 billion in AFG Program grants since 2001 and more than over \$2 billion in SAFER Program grants since 2005; and
9. **WHEREAS**, these grant programs provide valuable assistance in ensuring public safety throughout the nation and have the overwhelming support of the nation's Mayors,

10. **NOW, THEREFORE, BE IT RESOLVED**, that The United States Conference of Mayors reaffirms its strong support for the AFG, SAFER, and FP&S grant programs, which support the nation's fire services; and
11. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors urges Congress in setting federal budget priorities for Fiscal Year 2016 to prioritize public safety and increase funding for these FEMA programs that provide critical resources for our cities.

Projected Cost: Unknown

AFG



[Assistance to Firefighters Grants](#)

The primary goal of the Assistance to Firefighters Grants (AFG) is to meet the firefighting and emergency response needs of fire departments and nonaffiliated emergency medical service organizations. Since 2001, AFG has helped firefighters and other first responders to obtain critically needed equipment, protective gear, emergency vehicles, training and other resources needed to protect the public and emergency personnel from fire and related hazards.

SAFER



[Staffing for Adequate Fire & Emergency Response Grants \(SAFER\)](#)

The Staffing for Adequate Fire and Emergency Response (SAFER) Grants was created to provide funding directly to fire departments and volunteer firefighter interest organizations to help them increase the number of trained, "front line" firefighters available in their communities.

FP&S



[Fire Prevention & Safety Grants](#)

The Fire Prevention & Safety (FP&S) Grants are part of the Assistance to Firefighters Grants (AFG) and support projects that enhance the safety of the public and firefighters from fire and related hazard

Submitted by:

The Honorable Bill de Blasio, Mayor of New York
The Honorable Martin J. Walsh, Mayor of Boston
The Honorable Michael A. Nutter, Mayor of Philadelphia
The Honorable Charlie Hales, Mayor of Portland, OR
The Honorable Greg Stanton, Mayor of Phoenix

SUPPORTING THE REAUTHORIZATION AND REVISION OF THE NATIONAL FLOOD INSURANCE PROGRAM

1. **WHEREAS**, the National Flood Insurance Program (NFIP) provides essential insurance protection for communities throughout the United States; and
2. **WHEREAS**, this protection grows more critical each year as extreme weather events increase and the effects of global warming and sea level rise grow more profound; and
3. **WHEREAS**, the increasing flood insurance premiums rates make insurance unaffordable for many homeowners, especially those with low or fixed incomes; and
4. **WHEREAS**, the NFIP underwent some modest program reforms in the Homeowners Flood Insurance Affordability Act of 2013, and is only authorized until 2017; and
5. **WHEREAS**, recent examples of fraud following Hurricane Sandy and GAO reports highlighting mismanagement and wasteful spending speak to the need for major reforms to the NFIP; and
6. **WHEREAS**, better oversight of Write-Your-Own insurance companies and their contractors is needed; and
7. **WHEREAS**, FEMA should improve its data collection including elevation data on all properties, and make data available to homeowners and communities; and
8. **WHEREAS**, the current NFIP does not account for regional variations in building types and construction, nor are agents trained for specific regions; and
9. **WHEREAS**, not all mitigation options are technically or financially feasible, especially in dense urban cities,
10. **NOW, THEREFORE, BE IT RESOLVED**, that the United States Conference of Mayors calls on Congress to reauthorize the National Flood Insurance Program and address program fraud and waste, regional variations and mitigation needs, and affordability.

Projected Cost: Unknown

From the National Association of Insurance Commissioners:

National Flood Insurance Program (NFIP)

Last updated: 3/19/15

Floods are the most common and most destructive natural disaster in the United States. Ninety percent of all natural disasters involve flooding, according to Floodsmart.gov. The damage from a flood is not covered under a standard homeowners policy. Flood insurance is a special policy that is federally backed by the National Flood Insurance Program (NFIP) and available for homeowners, renters and businesses.

The National Flood Insurance Program (NFIP) was created as a result of the passage of the National Flood Insurance Act of 1968. Congress enacted the NFIP primarily because flood insurance was virtually unavailable from the private insurance markets following frequent widespread flooding along the Mississippi River in the early 1960s. The NFIP is a Federal program, managed by the Federal Emergency Management Administration (FEMA), and has three components: to provide flood insurance, to improve floodplain management and to develop maps of flood hazard zones.

The NFIP allows property owners in participating communities to buy insurance to protect against flood losses. Participating communities are required to establish management regulations in order to reduce future flood damages. This insurance is intended to furnish as an insurance alternative to disaster assistance and reduces the rising costs of repairing damage to buildings and their contents caused by flood. A homeowner is able to purchase excess flood insurance, but they must be covered by NFIP flood insurance first. Information detailing how to obtain flood insurance can be found at www.floodsmart.org, the official site of the NFIP.

Since NFIP's inception, additional legislation has been enacted to strengthen the program, ensure its fiscal soundness and inform its mapping and insurance rate-setting. More recently:

On July 6, 2012, President Obama signed into law the Biggert-Waters Flood Insurance Reform Act of 2012 (BW-12), which reauthorized the NFIP through Sept. 30, 2017, and made a number of reforms aimed at making the program more financially and structurally sound. The purpose of the legislation was to change the way the NFIP operates and to raise rates to reflect true flood risk, as well as make the program more financially stable. As implementation moved forward, constituent concerns over flood insurance premium increases prompted legislative efforts to modify some of the BW-12 reforms.

On March 21, 2014, President Obama signed the Homeowner Flood Insurance Affordability Act of 2014 into law, which repeals and modifies certain BW-12 provisions and makes additional program changes to other aspects of the NFIP. According to FEMA, the law lowers the rate increases on some policies, prevents some future rate increases, and implements a surcharge on all policyholders. It also repeals certain rate increases that have already gone into effect and provides for refunds to those policyholders.

[Click here](#) for an overview of the Homeowner Flood Insurance Affordability Act of 2014.

[Click here](#) for FEMA's overview of BW-12.

The NAIC Property and Casualty (C) Committee is charged to coordinate with the NFIP on the regulation of flood insurance and to continue developing a handbook or white paper to assist state insurance regulators in understanding the federal flood insurance program and how it interacts with state insurance regulation. Complete work on a handbook or white paper is expected by the 2015 Fall National Meeting.

Resolution No. 29

Submitted by:

The Honorable Christopher Cabaldon, Mayor of West Sacramento

ALIGNING FEDERAL POLICY ON FLOODPLAIN MANAGEMENT, CLIMATE CHANGE, AND SUSTAINABLE COMMUNITIES

1. **WHEREAS**, in 1977, President Carter issued Executive Order 11988 “in order to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains....” and the Order directed all federal agencies to exercise judgment in seeking to reduce flood damage, and impacts to floodplains, by not issuing permits or providing funds for floodplain development where practicable alternatives existed; and
2. **WHEREAS**, the Order defines a “floodplain” as “the lowland and relatively flat areas adjoining inland and coastal waters, including flood prone areas of offshore land, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year,” and thus, the Order creates a simple line between the activities that occur out of the Federal Emergency Management Agency (“FEMA”) regulated floodplain (these activities are not affected) and activities that occur within the FEMA regulated floodplain (these activities are affected); and
3. **WHEREAS**, in the 1970s, most significant flood protection facilities were constructed by the Army Corps of Engineers (“Corps”) which, recognizing FEMA’s use of the 100-year floodplain as relevant for development restrictions, were designed to provide at least 100-year flood protection; and
4. **WHEREAS**, once these projects were constructed by the Corps, it was assumed that the protected community would continue to enjoy at least 100-year flood protection, and the restrictive power of the Order would not apply to these existing urban communities; and
5. **WHEREAS**, new data and new understandings of levee failure mechanisms, coupled with historic storms, have caused the federal agencies to reclassify urban areas, formerly with at least 100-year flood protection, so that they now have less than 100-year flood protection; and
6. **WHEREAS** on January, 30, 2015 the Obama Administration created modifications to Executive Order 11988, through Executive Order 13690 “Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input”; and
7. **WHEREAS**, decertification of urban areas coupled with a more stringent Order could result in severe new restrictions on Federal spending and permits in existing urban areas,

including limitations on the ability of new homeowners to take advantage of HUD loans; and

8. **WHEREAS**, application of the Order has the potential to push people out of the dense urban core of many regions and into remote suburban areas, often located in uplands and foothills, because these upland and foothill areas do not have the limitations associated with communities at risk of flood; and
9. **WHEREAS**, this induced change in land use and transportation runs exactly counter to the Sustainable Communities Initiative and other related federal policies, and to municipal, regional, state, and federal efforts to significantly reduce the emission of greenhouse gases; and
10. **WHEREAS**, the nation and its cities will be unable to meet their greenhouse gas reduction targets if floodplain restrictions preclude federal investment in existing urban areas in 500-year floodplains; and
11. **WHEREAS**, in the Sacramento region, for example, the sustainable urban-centered growth strategy directs most growth to the urban floodplain and thereby (1) reduces overall land consumption in the floodplain by 90,000 acres by shifting from 42 percent to 12 percent greenfield development, (2) reduces per capita vehicle miles traveled and per capita greenhouse emissions, (3) reduces population and land consumption in the upper watershed and near wetlands and vernal pools, and (4) reduces water consumption; and
12. **WHEREAS**, with decertification of levees by the Corps also comes de-accreditation of those same levees by FEMA under the National Flood Insurance Program (“NFIP”). The NFIP requires that FEMA designate lands according to the risk of flooding. Zone X is applied to lands that have at least 100-year flood protection (protection from the “base flood”). When lands do not have at least 100-year flood protection, those lands are typically placed into an AE Zone, at which time new building construction cannot occur unless structures are elevated above the 100-year floodplain. However, the AE Zone limits the ability of local communities to collect development fees on new structures, thus eliminating a key funding stream for flood protection improvements; and
13. **WHEREAS**, the NFIP special flood hazard zones that would best acknowledge the decreased level of flood protection but still allow additional funding for levee improvements are A99 and AR, which allow limited building coupled with good floodplain management practices. However, the criteria to meet eligibility for these zones have been narrowly interpreted to largely only apply to flood improvement projects authorized and funded by the Federal Government, thus limiting their application and delaying many regions in their goal of reducing flood risk through flood protection improvements. This distinction between federal and non-federal authorization and funding is a relic of the era when the Federal Government was the only entity that could reliably construct flood protection projects,

14. **NOW, THEREFORE, BE IT RESOLVED**, that The United States Conference of Mayors urges the President to expressly align federal policy on floodplain management, including Executive Order 13690, regulations implementing the National Flood Insurance Program, and the National Objectives, Principles, and Standards for Water and Related Resources, with the Administration's policy initiatives on Climate Change and Sustainable Communities; and
15. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors opposes the adoption of federal policies that would disinvest in existing urbanized areas within floodplains or reverse state and regional efforts to promote more sustainable land use and transportation patterns which reduce greenhouse gas emissions by directing new growth to those existing urbanized areas; and
16. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors calls for modernization of the AR and A99 Special Flood Hazard Zones under the National Flood Insurance Program consistent with the following principles: (i) for A99 Zones, to clarify that the A99 Zone designation is available to communities without respect to the level of Federal investment or participation in the improvements and to clarify the methodology for meeting the 50 percent completion requirement and 50 percent expenditure requirement by recognizing the value that the existing levees contribute toward the cost of achieving base flood protection; and (ii) for AR Zones, to establish equitable timeframes for completing levee restoration for an AR Zone so that local communities have the same 10 years offered for projects constructed by the Corps and to create alternative methodologies, such as certification by a professional engineer with peer review, for demonstrating the minimum qualification criteria of at least 33-year protection.

Projected Cost: Unknown

January 30, 2015

Executive Order – Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input

EXECUTIVE ORDER

ESTABLISHING A FEDERAL FLOOD RISK MANAGEMENT STANDARD AND A PROCESS FOR FURTHER SOLICITING AND CONSIDERING STAKEHOLDER INPUT

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve the Nation's resilience to current and future flood risk, I hereby direct the following:

Section 1. Policy. It is the policy of the United States to improve the resilience of communities and Federal assets against the impacts of flooding. These impacts are anticipated to increase over time due to the effects of climate change and other threats. Losses caused by flooding affect the environment, our economic prosperity, and public health and safety, each of which affects our national security.

The Federal Government must take action, informed by the best-available and actionable science, to improve the Nation's preparedness and resilience against flooding. Executive Order 11988 of May 24, 1977 (Floodplain Management), requires executive departments and agencies (agencies) to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative. The Federal Government has developed processes for evaluating the impacts of Federal actions in or affecting floodplains to implement Executive Order 11988.

As part of a national policy on resilience and risk reduction consistent with my Climate Action Plan, the National Security Council staff coordinated an interagency effort to create a new flood risk reduction standard for federally funded projects. The views of Governors, mayors, and other stakeholders were solicited and considered as efforts were made to establish a new flood risk reduction standard for federally funded projects. The result of these efforts is the Federal Flood Risk Management Standard (Standard), a flexible framework to increase resilience against flooding and help preserve the natural values of floodplains. Incorporating this Standard will ensure that agencies expand management from the current base flood level to a higher vertical elevation and corresponding horizontal floodplain to address current and future flood risk and ensure that projects funded with taxpayer dollars last as long as intended.

This order establishes the Standard and sets forth a process for further solicitation and consideration of public input, including from Governors, mayors, and other stakeholders, prior to implementation of the Standard.

Sec. 2. Amendments to Executive Order 11988. Executive Order 11988 is amended as follows:

(a) Section 2 is amended by inserting ", to the extent permitted by law" after "as follows".

(b) Section 2(a)(1) is amended by striking "This Determination shall be made according to a Department of Housing and Urban Development (HUD) floodplain map or a more detailed map of an area, if available. If such maps are not available, the agency shall make a determination of the location of the floodplain based

on the best-available information. The Water Resources Council shall issue guidance on this information not later than October 1, 1977" and inserting in lieu thereof "To determine whether the action is located in a floodplain, the agency shall use one of the approaches in Section 6(c) of this Order based on the best-available information and the Federal Emergency Management Agency's effective Flood Insurance Rate Map".

(c) Section 2(a)(2) is amended by inserting the following sentence after the first sentence:

"Where possible, an agency shall use natural systems, ecosystem processes, and nature-based approaches when developing alternatives for consideration."

(d) Section 2(d) is amended by striking "Director" and inserting "Administrator" in lieu thereof.

(e) Section 3(a) is amended by inserting the following sentence after the first sentence:

"The regulations and procedures must also be consistent with the Federal Flood Risk Management Standard (FFRMS)."

(f) Section 3(a) is further amended by inserting "and FFRMS" after "Flood Insurance Program".

(g) Section 3(b) is amended by striking "base flood level" and inserting "elevation of the floodplain as defined in Section 6(c) of this Order" in lieu thereof.

(h) Section 4 is revised to read as follows:

"In addition to any responsibilities under this Order and Sections 102, 202, and 205 of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4012a, 4106, and 4128), agencies which guarantee, approve, regulate, or insure any financial transaction which is related to an area located in an area subject to the base flood shall, prior to completing action on such transaction, inform any private parties participating in the transaction of the hazards of locating structures in the area subject to the base flood."

(i) Section 6(c) is amended by striking ", including at a minimum, that area subject to a one percent or greater chance of flooding in any given year" and inserting in lieu thereof:

". The floodplain shall be established using one of the following approaches:

"(1) Unless an exception is made under paragraph (2), the floodplain shall be:

"(i) the elevation and flood hazard area that result from using a climate-informed science approach that uses the best-available, actionable hydrologic and hydraulic data and methods that integrate current and future changes in flooding based on climate science. This approach will also include an emphasis on whether the action is a critical action as one of the factors to be considered when conducting the analysis;

"(ii) the elevation and flood hazard area that result from using the freeboard value, reached by adding an additional 2 feet to the base flood elevation for non-critical actions and by adding an additional 3 feet to the base flood elevation for critical actions;

"(iii) the area subject to flooding by the 0.2 percent annual chance flood; or

"(iv) the elevation and flood hazard area that result from using any other method identified in an update to the FFRMS.

"(2) The head of an agency may except an agency action from paragraph (1) where it is in the interest of national security, where the agency action is an emergency action, where application to a Federal facility or structure is demonstrably inappropriate, or where the agency action is a mission-critical requirement related to a national security interest or an emergency action. When an agency action is excepted from paragraph (1) because it is in the interest of national security, it is an emergency action, or it is a mission-critical requirement related to a national security interest or an emergency action, the agency head shall rely on the area of land subject to the base flood".

(j) Section 6 is further amended by adding the following new subsection (d) at the end:

"(d) The term 'critical action' shall mean any activity for which even a slight chance of flooding would be too great."

(k) Section 8 is revised to read as follows:

"Nothing in this Order shall apply to assistance provided for emergency work essential to save lives and protect property and public health and safety, performed pursuant to Sections 403 and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (42 U.S.C. 5170b and 5192)."

Sec. 3. Agency Action. (a) Prior to any action to implement the Standard, additional input from stakeholders shall be solicited and considered. To carry out this process:

(i) the Federal Emergency Management Agency, on behalf of the Mitigation Framework Leadership Group, shall publish for public comment draft amended Floodplain Management Guidelines for Implementing Executive Order 11988 (Guidelines) to provide guidance to agencies on the implementation of Executive Order 11988, as amended, consistent with the Standard;

(ii) during the comment period, the Mitigation Framework Leadership Group shall host public meetings with stakeholders to solicit input; and

(iii) after the comment period closes, and based on the comments received on the draft Guidelines during the comment period, in accordance with subsections (a)(i) and (ii) of this section, the Mitigation Framework Leadership Group shall provide recommendations to the Water Resources Council.

(b) After additional input from stakeholders has been solicited and considered as set forth in subsections (a)(i) and (ii) of this section and after consideration of the recommendations made by the Mitigation Framework Leadership Group pursuant to subsection (a)(iii) of this section, the Water Resources Council shall issue amended Guidelines to provide guidance to agencies on the implementation of Executive Order 11988, as amended, consistent with the Standard.

(c) To the extent permitted by law, each agency shall, in consultation with the Water Resources Council, Federal Interagency Floodplain Management Task Force, Federal Emergency Management Agency, and Council on Environmental Quality, issue or amend existing regulations and procedures to comply with this order, and update those regulations and procedures as warranted. Within 30 days of the closing of the public comment period for the draft amendments to the Guidelines as described in subsection (a) of this section, each agency shall submit an implementation plan to the National Security Council staff that contains milestones and a timeline for implementation of this order and the Standard, by the agency as it applies to the agency's processes and mission. Agencies shall not issue or amend existing regulations and procedures pursuant to this subsection until after the Water Resources Council has issued amended Guidelines pursuant to subsection (b) of this order.

Sec. 4. Reassessment. (a) The Water Resources Council shall issue any further amendments to the Guidelines as warranted.

(b) The Mitigation Framework Leadership Group in consultation with the Federal Interagency Floodplain Management Task Force shall reassess the Standard annually, after seeking stakeholder input, and provide

recommendations to the Water Resources Council to update the Standard if warranted based on accurate and actionable science that takes into account changes to climate and other changes in flood risk. The Water Resources Council shall issue an update to the Standard at least every 5 years.

Sec. 5. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department, agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Water Resources Council shall carry out its responsibilities under this order in consultation with the Mitigation Framework Leadership Group.

BARACK OBAMA

THE WHITE HOUSE,
January 30, 2015.

Resolution No. 30

Submitted by:

The Honorable Rahm Emanuel, Mayor of Chicago
The Honorable Michael Nutter, Mayor of Philadelphia
The Honorable Martin J. Walsh, Mayor of Boston
The Honorable Eric Garcetti, Mayor of Los Angeles
The Honorable Bill de Blasio, Mayor of New York

TO COMMEMORATE THE 25TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

1. **WHEREAS**, the Americans with Disabilities Act (ADA) was signed into law on July 26, 1990, “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities”; and
2. **WHEREAS**, the ADA protects the rights of individuals with disabilities to work, access the benefits of state and local government programs, use transportation services, utilize telecommunication and access public accommodations and commercial facilities; and
3. **WHEREAS**, the ADA has expanded opportunities for Americans with disabilities by reducing barriers and changing perceptions, and increasing full participation in community life; and
4. **WHEREAS**, despite progress over the past 25 years, people with disabilities still have higher poverty rates and lower employment and educational outcomes than those without disabilities; and
5. **WHEREAS**, July 26, 2015, marks the 25th Anniversary of the passage of the ADA, a date of historical significance to the disability community; and
6. **WHEREAS**, cities and municipalities across the nation are commemorating and recommitting themselves to the goals and ideals of the ADA; and
7. **WHEREAS**, the national ADA25 was established to coordinate a unified celebration of the 25th anniversary of the ADA, focusing on employment, transition, community living and education; and
8. **WHEREAS**, the goals of ADA25 are to foster public recognition that disability as a natural part of the human experience and to expand opportunities for people with disabilities to participate fully in the civic, social and economic life of the nation,
9. **NOW, THEREFORE, BE IT RESOLVED**, that The United States Conference of Mayors supports ADA25 and urges all cities and municipalities to work with civic and disability partners to inspire action with commitments and legacies that fulfill the

ADAS's transformative promise of equal opportunity, full participation, independent living and economic self-sufficiency of people with disabilities.

Projected Cost: None



Information and Technical Assistance on the Americans with Disabilities Act

Introduction to the ADA

The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990, by President George H.W. Bush. The ADA is one of America's most comprehensive pieces of civil rights legislation that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream of American life -- to enjoy employment opportunities, to purchase goods and services, and to participate in State and local government programs and services. Modeled after the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, sex, or national origin -- and Section 504 of the Rehabilitation Act of 1973 -- the ADA is an "equal opportunity" law for people with disabilities.

To be protected by the ADA, one must have a disability, which is defined by the ADA as a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment. The ADA does not specifically name all of the impairments that are covered.

CELEBRATING ACCESS TODAY: 25TH ANNIVERSARY YEAR OF THE AMERICANS WITH DISABILITIES ACT

May 27, 2015

Courtesy of Vanita Gupta, Principal Deputy Assistant Attorney General for the Civil Rights Division

Twenty-five years ago, with the passage of the Americans with Disabilities Act (ADA), our nation committed itself to the elimination of discrimination against people with disabilities. The U.S. Department of Justice's Civil Rights Division is proud to play a critical role in enforcing the ADA, working towards a future in which all the doors are open to equality of opportunity, full participation, independent living, integration and economic self-sufficiency for persons with disabilities. In honor of the 25th anniversary of the ADA, each month the Department of Justice is highlighting efforts that are opening gateways to full participation and opportunity for people with disabilities. This month, we highlight the story of Attorney Tom Ross and his struggle to gain full and equal access to electronic court documents in Orange County, Florida.

Mr. Ross, who is blind, was representing the plaintiff in a case before the Ninth Judicial Circuit Court of Florida. In all civil cases assigned to this court, documents must be filed electronically with the Orange County Clerk of Courts through an electronic case filing (ECF) system. Electronic documents, websites, and other electronic information (including PDF documents) can be accessible to blind people who use common screen reading technology, which reads electronic documents aloud. However, the electronic information must be formatted to be accessible for the screen reader, which can be done using common software programs.

Unfortunately, many of the documents in Mr. Ross's case were filed in an inaccessible PDF format. And despite his multiple requests, the Clerk of Courts failed to provide Mr. Ross with an accessible version of these documents for 14 months. For example, at least one of the defendant's motions in Mr. Ross's case included over twenty exhibits, the majority of which were not accessible until defense counsel finally agreed to provide them in an accessible format four months after the original filing. Even after Mr. Ross began to receive most of defendant's filings in an accessible format, all court orders remained in an inaccessible format to Mr. Ross for another year or more. These barriers limited Mr. Ross's ability to practice his profession and represent his client. They also impacted his relationship with the judge presiding over the case and opposing counsel, both of whom refused Mr. Ross's requests for accessibility.

Soon experiences like Mr. Ross's will become a thing of the past. Last summer, the Justice Department reached a settlement with the Orange County Clerk of Courts to ensure that the Clerk of Courts will provide individuals with disabilities, like Mr. Ross, with any document in the court record in an accessible format upon request. The agreement also ensures that the Clerk of Courts' website and ECF system are made fully accessible to individuals with disabilities, including blind individuals, in accordance with the Web Content Accessibility Guidelines (WCAG) 2.0 Level AA, available at <http://www.w3.org/TR/WCAG20/>^[external link].

Now 10 months into implementation of the three-year agreement, we are pleased to report that the Clerk of Courts has worked closely with the department to ensure equal access to court documents and other services of the Clerk of Courts for people with disabilities, including making significant improvements to their website and internal policies and procedures. The Clerk of Courts also paid \$10,000 in damages to Mr. Ross and completed training on the ADA and WCAG 2.0 AA accessibility requirements. Mr. Ross is gratified to see these changes to the Clerk of Court's website and procedures, enabling him and other blind individuals to access court documents they need to practice their profession or participate in cases in which they are a party. Access to court documents is critical to ensuring full and equal access to the courts—a right fundamental to our justice system.

Under Title II of the ADA and its implementing regulations, state and local government entities, such as the Orange County Clerk of Courts, are required to make their programs, services and activities accessible and to ensure their communications with qualified individuals with disabilities are equally effective as their communications with people without disabilities. The official court record is a program, service, and activity of the Clerk of Courts. Those interested in finding out more about this settlement or the obligations of state and local government entities under the ADA may call the Justice Department's toll-free ADA information line at 800-514-0301 or 800-514-0383 (TDD), or access its ADA website at www.ada.gov. ADA complaints may be filed by online at <http://www.ada.gov/complaint/>.

Resolution No. 31

Submitted by:

The Honorable Joy Cooper, Mayor of Hallandale Beach

A RESOLUTION SUPPORTING HOUSE OF REPRESENTATIVES BILL 241, AMENDING THE AMERICANS WITH DISABILITIES ACT OF 1990 TO ESTABLISH CONDITION PRECEDENTS TO CIVIL ACTION

1. **WHEREAS**, recently there has been a barrage of cases filed against small businesses located and operating in the cities across the country alleging violations of the Americans with Disabilities Act of 1990; and
2. **WHEREAS**, the Americans with Disabilities Act of 1990 contains no condition precedents to filing litigation alleging structural barriers to entry into existing public accommodations; and
3. **WHEREAS**, several members of the United States House of Representatives have introduced legislation to address this shortcoming in the law; and
4. **WHEREAS**, HR 241 has been referred to the Committee on the Judiciary for consideration; and
5. **WHEREAS**, HR 241 would require in any civil action for discrimination under section 302(b) (2) based on the failure to remove a structural barrier to entry into an existing public accommodation that the owner be provided written notice specific enough to allow such owner and operator to identify such barrier,
6. **NOW, THEREFORE BE IT RESOLVED**, The United States Conference of Mayors support the enactment of HR 241 as the first step to stopping frivolous, fraudulent and unnecessarily burdensome litigation against small business owners.

Projected Cost: Unknown

**CITY OF HALLANDALE BEACH
JOY COOPER, MAYOR**

**RESOLUTION SUPPORTING H.R. 241:
ADDITIONAL INFORMATION**

Passed by Congress in 1990, the Americans with Disabilities Act (ADA) is the nation's first comprehensive civil rights law addressing the needs of people with disabilities, prohibiting discrimination in employment, public services, public accommodations, and telecommunications.

The ADA is a wide-ranging civil rights law that prohibits discrimination based on disability. It affords similar protections against discrimination to Americans with disabilities as the Civil Rights Act of 1964, which made discrimination based on race, religion, sex, national origin, and other characteristics illegal. In addition, unlike the Civil Rights Act, the ADA also requires covered employers to provide reasonable accommodations to employees with disabilities, and imposes accessibility requirements on public accommodations.

Several states have seen a drastic increase in the number of frivolous lawsuits accusing local small businesses of violating the Americans with Disabilities Act. ADA is a federal legislation and local governments are very limited in what actions they can take. Upon review of the pending cases within the Southern District of Florida, and throughout the country, the majority of cases have been filed by the same lawyers. At least one of the lawyers has been rebuked by a New York judge for profiting from these types of lawsuits. Even after a business comes into compliance, the lawsuits continue regardless of the corrective action.

H.R. 241, introduced on January 9th by Rep. Ken Calvert (R-CA) amends The Americans with Disabilities Act of 1990 to prohibit an aggrieved person from commencing a civil action for discrimination based on the failure to remove a structural barrier to entry into an existing public accommodation unless the owner or operator of such accommodation: (1) is provided a written notice specific enough to identify such barrier; and (2) has, within specified time periods, either failed to provide the aggrieved person with a written description outlining improvements that will be made to remove such barrier or provided such description and failed to remove such barrier.

Americans with Disabilities Act of 1990 contains no condition precedents to filing litigation alleging structural barriers to entry into existing public accommodations. Supporting this bill would be the first step to stopping frivolous, fraudulent and unnecessarily burdensome litigation against small business owners.

Resolution No. 32

Submitted by:

The Honorable Edwin M. Lee, Mayor, City of San Francisco
The Honorable Eric Garcetti, Mayor of Los Angeles
The Honorable Bill Harrison, Mayor of Fremont
The Honorable Michael A. Nutter, Mayor of Philadelphia
The Honorable Charlie Hales, Mayor of Portland, OR
The Honorable Bill de Blasio, Mayor of New York
The Honorable Michael Coleman, Mayor of Columbus, OH
The Honorable Pedro E. Segarra, Mayor of Hartford
The Honorable Stephanie Rawlings-Blake, Mayor of Baltimore
The Honorable Martin J. Walsh, Mayor of Boston
The Honorable Rahm Emanuel, Mayor of Chicago
The Honorable Greg Stanton, Mayor of Phoenix
The Honorable Kasim Reed, Mayor of Atlanta
The Honorable Michael Brennan, Mayor of Portland, ME
The Honorable Edward Murray, Mayor of Seattle

SUPPORTING THE WHITE HOUSE TASK FORCE ON NEW AMERICANS RECOMMENDATIONS

1. **WHEREAS**, today 41.3 million foreign-born residents live in the United States and are contributing to the vitality of our country and their communities, over the next 20 years, immigrants and their children will account for 85 percent of the net growth in the U.S. labor force, and immigrants are entrepreneurial, starting 28 percent of all new businesses; and
2. **WHEREAS**, a 2011 study by the Partnership for a New American Economy found that immigrants or their children have founded more than 40 percent of Fortune 500 companies, which collectively employ over 10 million people worldwide and generate annual revenues of \$4.2 trillion; and
3. **WHEREAS**, in November 2014, President Obama created the White House Task Force on New Americans (“Task Force”), a formal interagency body to further strengthen the federal government’s immigrant integration efforts by making them more strategic and deliberate, and building on the civic, economic and linguistic integration pillars identified over six years ago, the Task Force outlined the federal government’s goals to strengthen its integration efforts nationwide and build welcoming communities; and
4. **WHEREAS**, these immigrant integration goals encompass 1) Building Welcoming Communities; 2) Strengthening Existing Pathways to Naturalization and Promoting Civic Engagement; 3) Supporting Skill Development, Fostering Entrepreneurship and Small Business Growth, and Protecting New American Workers; and 4) Expanding Opportunities for Linguistic Integration and Education; and

5. **WHEREAS**, by working with local, state, federal, private sector, labor and education partners to expand workforce development, employment and small business opportunities, support high quality English language acquisition, and increase opportunities for postsecondary education and training, states and localities will strengthen their economic infrastructures and ability to compete in a global economy,
6. **NOW, THEREFORE, BE IT RESOLVED**, that The United States Conference of Mayors endorses the findings of the White House Task Force on New Americans; and
7. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors encourages philanthropic and corporate partners to invest in the nation's future workforce and join states and localities in creating welcoming places for New Americans to participate fully and contribute to the economic success of all; and
8. **BE IT FURTHER RESOLVED**, that The United States Conference of Mayors calls on states and localities to support these efforts as part of implementation and planning for the new Workforce Innovation and Opportunity Act.

Projected Cost: Unknown

The White House

Strengthening Communities by Welcoming and Integrating Immigrants and Refugees

Cecilia Muñoz, León Rodríguez

April 15, 2015

Immigrants and refugees have come to our shores in search of opportunity and freedom since before the founding of our nation. The process of integrating into a new land – to achieve self-sufficiency, political and civic involvement, and social inclusion – can be difficult but the rewards can be immense. We are both children of immigrants and can attest to the success that stems from successful integration into the fabric of our nation.

Yesterday, we had the honor of submitting to President Obama a report from the Task Force on New Americans entitled **Strengthening Communities by Welcoming All Residents: A Federal Strategic Action Plan on Immigrant and Refugee Integration**. This plan outlines a robust federal immigrant and refugee integration strategy that will advance our global competitiveness and identifies ways to ensure our nation's diverse people are fully contributing to their communities, and welcomed into them. Established by President Obama as part of the immigration accountability executive actions announced in November 2014, the Task Force is comprised of 16 federal departments, agencies, and White House offices. Its work was extensive, fast-paced and – most importantly – rewarding. To prepare this action plan, we conducted an assessment of existing federal integration initiatives, engaged with stakeholders at the local and national levels, and solicited recommendations from the public.

Our initial strategic action plan provides, for the president's consideration, specific recommendations which are intended to help:

- Build welcoming communities
- Strengthen existing pathways to naturalization and promote civic engagement
- Support skill development, foster entrepreneurship, and protect new American workers
- Expand opportunities for linguistic integration and education

One of the most effective ways for gaining a sense of belonging is to help those in need within your community. Recognizing the positive impact of volunteer and national service, the Task Force has revitalized a New Americans Project to encourage volunteerism among all Americans, including U.S. citizens and those who are new to the nation. You can support the initiative, by visiting WhiteHouse.gov/New-Americans. This website provides a ZIP-code based search engine that identifies local organizations in need of volunteers.

Although submitting this action plan to the president was an important milestone, it is just the beginning of our work. Task Force members will begin implementing the recommendations outlined in the action plan over the coming months. Our partners can anticipate our continued engagement with key stakeholders – those who are working diligently each day in communities across the country – as we further refine and review the plan. We look forward to providing the president with an update on the Task Force's efforts in November 2015.

We are proud of the work we have done to identify and establish common-sense solutions that move President Obama's vision of building welcoming American communities that integrate immigrants and refugees forward. Immigration is an issue that is critical to our nation's continued economic success and global leadership. Welcoming immigrants and refugees reflects our proud traditions and distinctive characteristics. We are, after all, a nation of immigrants.

Resolution No. 33

Submitted by:

The Honorable Eric Garcetti, Mayor of Los Angeles
The Honorable Mark Stodola, Mayor of Little Rock
The Honorable Stephanie Rawlings-Blake, Mayor of Baltimore
The Honorable Michael A. Nutter, Mayor of Philadelphia
The Honorable Steven Fulop, Mayor of Jersey City
The Honorable Charlie Hales, Mayor of Portland, OR
The Honorable Annise D. Parker, Mayor of Houston
The Honorable Kasim Reed, Mayor of Atlanta
The Honorable Bill de Blasio, Mayor of New York
The Honorable Bill Harrison, Mayor of Fremont

CITIZENSHIP NOW

1. **WHEREAS**, the United States has long attracted immigrants to its shore to find success and pursue the American Dream; and
2. **WHEREAS**, more U.S. cities are home to diverse populations, such as in Los Angeles where 40 percent of its residents are foreign-born and hail from more than 110 countries in search of opportunity; and
3. **WHEREAS**, nationally there are approximately 8.8 million immigrants currently eligible for citizenship, and the City of Los Angeles has one of the largest concentrations of lawful permanent residents in the country eligible for U.S. Citizenship; and
4. **WHEREAS**, immigrants strengthen the economy and are often the driving force behind the creation and success of small business enterprises; and
5. **WHEREAS**, it has been found that citizenship increases the overall economic revenue for local municipal governments; and
6. **WHEREAS**, citizenship creates new economic opportunities and increased civic engagement; and
7. **WHEREAS**, Cities for Citizenship has been engaging localities across the nation increase resources for the citizenship process; and
9. **WHEREAS**, the White House New Americans Task Force, with the input of Mayors, launched an initiative supporting civic engagement and naturalization education and outreach; and
10. **WHEREAS**, the federal government has created a federal agency, the United States Citizenship and Immigration Services (USCIS), under the Department of Homeland

Security to support naturalization efforts and to encourage naturalization in the form of local municipal partnerships; and

11. **WHEREAS**, it is in the interest of the federal government and specifically USCIS to reduce fees for citizenship applicants and to minimize barriers to naturalization by offering alternatives like a sliding-scale income-based approach or family-unit fee,
12. **NOW, THEREFORE, BE IT RESOLVED**, that The United States Conference of Mayors urges the USCIS and Department of Homeland Security to make policy changes that will increase the number of U.S. citizens from the pool of eligible lawful permanent residents.

Projected Cost: Unknown

Naturalization Economic Impact from Center for the Study of Immigration Integration at USC:

- America has 8.8 million eligible legal permanent residents
- Naturalization would provide a \$37 - \$52 billion boost to the national economy over the next ten years.

Immigrant naturalization will add:

- Up to \$4.1 billion the local economy in the City of New York
- Up to \$2.8 billion to the Los Angeles economy
- Up to \$1.6 billion to Chicago's economy

In September 2014, we launched "Cities for Citizenship," a multi-city initiative led by Los Angeles, New York, and Chicago to encourage and support legal permanent residents complete the citizenship process.

Over 15 cities have joined C4C since its inception. The Citi Community Development has provided a total of \$1.1 million in funding for this effort.

Since July 2014, LA has helped more than 36,000 residents that are legal permanent residents (LPRs) navigate the citizenship process, through the L.A. Public Library's "Citizenship Corners" program. In April 2015, LAPL received a National Medal for Museum and Library Service for their citizenship work.

U.S. Citizenship and Immigration Service

Citizenship Through Naturalization

Naturalization is the process by which U.S. citizenship is granted to a foreign citizen or national after he or she fulfills the requirements established by Congress in the Immigration and Nationality Act (INA). For more information, see [USCIS Policy Manual Citizenship and Naturalization Guidance](#).

How to Apply for Naturalization

To apply for naturalization, file [Form N-400, Application for Naturalization](#).

For more information, see our [How Do I Apply for Citizenship?](#) guide. We also provide educational materials to help you prepare for the English, U.S. history and civics portions of the naturalization test, including:

- [Naturalization Self Test](#)
- [Study for the Naturalization Test](#)

For more test information visit our [Naturalization Test](#) page.

If you are in the military and are interested in becoming a U.S. citizen, please see the [M-599, Naturalization Information for Military](#) guide.

You May Qualify for Naturalization if:

- You have been a permanent resident for at least 5 years and meet all other eligibility requirements, please visit our [Path to Citizenship](#) page for more information.
- You have been a permanent resident for 3 years or more and meet all eligibility requirements to file as a spouse of a U.S. citizen, please visit our [Naturalization for Spouses of U.S. Citizens](#) page for more information.
- You have qualifying service in the U.S. armed forces and meet all other eligibility requirements. Visit the [Military](#) section of our website.
- Your child may qualify for naturalization if you are a U.S. citizen, the child was born outside the U.S., the child is currently residing outside the U.S., and all other eligibility requirements are met. Visit our [Citizenship Through Parents](#) page for more information.

You may qualify through other paths to naturalization if you do not qualify through the paths described in the links to the left. See also the [USCIS Policy Manual Citizenship and Naturalization Guidance](#) and our [A Guide to Naturalization](#) guide. Chapter 4 of the guide discusses who is eligible for naturalization.

Note: You may already be a U.S. citizen and not need to apply for naturalization if your biological or adoptive parent(s) became a U.S. citizen before you reached the age of 18. For more information, visit our [Citizenship Through Parents](#) page.

What is the Cost of the INS Citizenship Application?

The cost of the [INS citizenship application](#) is \$595 and \$85 must be paid along with that form filing fee as biometrics fee. Your fingerprints will be taken after you file Form N-400, Application for Naturalization, and for that purpose, you will have to pay the biometrics fee and that fee must be paid at the time of filing your INS citizenship application. Hence, the total fee that must accompany your naturalization application is \$680. However, the biometrics fee does not apply to applicants above age 75.

Resolution No. 34

Submitted by:

The Honorable Bill Harrison, Mayor of Fremont

IMMIGRANT HERITAGE MONTH 2015

1. **WHEREAS**, generations of immigrants from every corner of the globe have built our country's economy and created the unique character of our nation; and
2. **WHEREAS**, immigrants continue to grow businesses, innovate, strengthen our economy, and create American jobs in cities across the country; and
3. **WHEREAS**, immigrants have provided the United States with unique social and cultural influence, fundamentally enriching the extraordinary character of our nation; and
4. **WHEREAS**, immigrants have been tireless leaders not only in securing their own rights and access to equal opportunity, but have also campaigned to create a fairer and more just society for all Americans; and
5. **WHEREAS**, despite these countless contributions, the role of immigrants in building and enriching our nation has frequently been overlooked and undervalued throughout our history and continuing to the present day,
6. **NOW, THEREFORE, BE IT RESOLVED**, that The United States Conference of Mayors designates June 2015 as "Immigrant Heritage Month."

Projected Cost: None

From WelcomingAmerica.org:

IN HONOR OF IMMIGRANT HERITAGE MONTH, CELEBRATING THE DIVERSITY THAT UNITES US

June 23rd, 2014

Throughout the month of June, [Welcome.us](#), a new non-profit organization dedicated to celebrating a United States that is fueled by immigrants from around the world, will be celebrating the first-ever Immigrant Heritage Month. The goal of the month – which will bring together a dynamic coalition of individuals and organizations from Congressmen to celebrities – is to encourage every American to tell the story of how they first felt welcomed to the American experience.

Since 2009, [Welcoming America](#) has brought together these civic leaders and everyday welcoming heroes through a vibrant network that reaches from coast to coast. From mayors in [Atlanta](#) and [Pittsburgh](#), who recently announced new Welcoming initiatives, to long standing efforts in states as diverse as [Michigan](#), [Nebraska](#), [Tennessee](#), and [Rhode Island](#), the Welcoming America movement reflects the diversity of American communities, rural and urban, that are already extending a welcome to their newest neighbors.

As the country celebrates the first Immigrant Heritage Month, Welcome.us and Welcoming America together salute the many stars who are making their communities more welcoming places for everyone. Throughout the month, celebrities and notable individuals will be sharing their own stories and the stories of influential immigrants through PSA spots available on Welcome.us' [YouTube channel](#). And we are encouraging you to share your own welcome story by engaging with us and Immigrant Heritage Month on social media by using the hashtag #welcomeus.

From: Shelley Bain
To: [Cownie, Frank](#)
Subject: Kosovo Delegation / Friendship Force confirmation - May 7
Date: Wednesday, May 02, 2018 8:19:33 PM

Dear Mayor Cownie,

This is a confirmation of a Welcome to the City meeting between you and a delegation from Kosovo (Preventing Fraud and Corruption in Government) on

Monday, May 7

9:00 – 9:30 am

Des Moines City Hall

400 Robert D Ray Drive

We look forward to seeing you then.

Shelley Bain

515-279-8908

From: [Cownie, Frank](#)
To: [Valent, Amanda L.](#)
Subject: Kosovo Delegation / Friendship Force confirmation - May 7
Date: Thursday, May 03, 2018 9:56:52 AM

Amanda, I dont see this on his calendar UNLESS the John Tone appointment is the Kosovo welcome. Thanks, Tina

Sent from my iPad

Begin forwarded message:

From: "Shelley Bain" <shelleybain@centurylink.net>
Date: May 2, 2018 at 8:19:30 PM CDT
To: <fcownie@dmgov.org>
Subject: Kosovo Delegation / Friendship Force confirmation - May 7

Dear Mayor Cownie,
This is a confirmation of a Welcome to the City meeting between you and a delegation from Kosovo (Preventing Fraud and Corruption in Government) on
Monday, May 7
9:00 – 9:30 am
Des Moines City Hall
400 Robert D Ray Drive

We look forward to seeing you then.
Shelley Bain
515-279-8908

From: [Cownie, Frank](#)
To: [Sanders, Scott E.](#)
Subject: Letter of support
Date: Wednesday, October 12, 2016 12:50:56 PM

What do you think?

Ms. Becky Swift
Certificate of Need Program
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, IA 50319-0075

Re: Letter of Support for Additional Beds at Younker Rehabilitation Center

Dear Ms. Swift,

I am writing to express my support for Iowa Methodist Medical Center's request for additional inpatient rehabilitation beds at its existing Younker Rehabilitation Center. Iowa Methodist is a not-for-profit hospital that serves as a safety net for our low income residents and other persons who might not otherwise have access to these high quality comprehensive health care services. Methodist's renovation of existing space allows for the expansion of this needed service in the most cost effective manner possible.

Younker Rehabilitation Center is a regional center of excellence that has served the rehab needs of residents of Des Moines and the surrounding communities for nearly 60 years. In addition to this valuable healthcare service, Younker Rehabilitation provides employment opportunities for more than 50 residents of central Iowa. The City of Des Moines looks forward to Younker's continuing and expanding presence in the heart of Des Moines.

Des Moines' position at the center of central Iowa's growing population, combined with Methodist's location adjacent to Interstate 235 make it an ideal location for serving the needs of Iowa's patients. This central location for rehab services allows easy access for patients and their family members.

Accordingly, I respectfully urge approval as this matter comes before the State Health Facilities Council.

Sincerely,

Frank Cownie,
Mayor
Sent from my iPhone

From: lisa elmore
To: BobM@FNGI.net; [Coleman, Chris](#); [Cownie, Frank](#); ColemanSeven@mchsi.com; [Coleman, Chris](#); hensley.chrissteve@gmail.com; [Rauh, Diane L.](#); [Moore, Skip](#); [Gray, William S.](#); [Gatto, Joe P.](#)
Date: Sunday, March 15, 2015 6:18:44 PM

NYC cannot leave empty building abandoned and then demolish them, and keep the lot empty where not even a car can park.

There has to be some sign of human life in front of every building landscape where there is a blue canopy on the wall of the construction. A city sign saying the proper building address is not enough.

Each building in nyc needs to have humans in front and social workers and set appointments for people who are involved with that building before and its neighborhood. They have to be driven to the proper nyc ddc office.

And discuss expenses and if the person can move into the proposed zone, the proposed building.

As well if a business chooses to move in. With a kiosk of sort.

There definitely fraud going on on the city councils legal end because they've all been living in nyc more than 20 years.

They already know all the lawyers. Some of them they've made crazy or not visited on certain holidays. At this point too they know the homeless people. Their documents. They have to be widely investigated for their fraud in other countries. Them and their staff.

Almost no one is chosen.

Why are everyone on the city council less than fifty years old. And not one over eighty or ninety.

None of them impressive. All with social flaws. Widely seen. The nyc council has to be investigated but nyc cannot leave

banks and buildings abandoned on the same block more than 24 hours in a row for months and years. This is abuse and sidewalk failure.

Lisa Elmore

From: Laura Waxman
To: [Cownie, Frank](#)
Cc: [Talamante, Tomás \(EOM\)](#)
Subject: Materials for the June 24 Criminal and Social Justice Committee Meeting in Indianapolis
Date: Tuesday, June 21, 2016 4:25:03 PM
Attachments: [Criminal and Social Justice Committee Resolutions in order.pdf](#)
[CSJ agenda.pdf](#)
[MMB Letter To USCM Criminal and Social Justice Committee.pdf](#)

To: Members of the Criminal and Social Justice Committee

The Committee will meet from 3:45-5:00 PM on Friday, June 24 in the White River Ballroom I-J, on the 1st Level of the JW Marriott Indianapolis during the 84th Annual Conference of Mayors.

Attached are the agenda for the meeting and a file with the 19 resolutions submitted "in a timely fashion" for consideration by the Committee. Also attached is a letter from Washington DC Mayor Muriel Bowser on her DC Statehood resolution.

Please note that in addition to consideration of resolutions we will have several speakers -- the Mayors of Charlotte, Los Angeles, and Boston and the President of FirstNet -- who discuss topics we expect are very much on mayors' minds today.

Please feel free to contact me if you have any questions about the meeting. I hope to see you in Indianapolis.

Laura

--

Laura DeKoven Waxman
Director of Public Safety
The U.S. Conference of Mayors
1620 Eye Street, NW
Washington, DC 20006
(202) 489-7534
lwaxman@usmayors.org

You are currently subscribed to cr as: fcownie@dmgov.org.

To unsubscribe click here: <http://list.usmayors.org:81/u?id=204000.69e1e733e268ba5165da65b599b28f9d&n=T&l=cr&o=123769>

(It may be necessary to cut and paste the above URL if the line is broken)

or send a blank email to leave-123769-204000.69e1e733e268ba5165da65b599b28f9d@list.usmayors.org



THE UNITED STATES CONFERENCE OF MAYORS

1620 EYE STREET, NORTHWEST
WASHINGTON, D.C. 20006
TELEPHONE (202) 293-7330
FAX (202) 293-2352
TDD (202) 293-9445
URL: www.usmayors.org/uscm

CRIMINAL AND SOCIAL JUSTICE COMMITTEE

June 24, 2016

White River Ballroom I-J, 1st level
JW Marriott Indianapolis

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THE COPS PROGRAM

Resolution Number: 39

Sponsored by:

Karen M. Freeman-Wilson (Gary, Indiana)

Greg Fischer (Louisville, Kentucky)

WHEREAS, the enactment and continued funding of the COPS Program has been a top priority for The United States Conference of Mayors ever since the program was established in 1994; and

WHEREAS, the U.S. Department of Justice and its Office of Community Policing Services have done a superb job of administering the COPS Program, maximizing the funding available and providing it to local police departments in an effective and efficient manner; and

WHEREAS, since 1994 the COPS Program has:

- Invested more than \$14 billion to add community policing officers to the nation's streets, enhance crime fighting technology, support crime prevention initiatives, and provide training and technical assistance to help advance community policing; and
- Funded approximately 126,000 additional officers in more than 13,600 of the nation's 18,000 law enforcement agencies across the country, in jurisdictions large and small; and
- Trained nearly 700,000 law enforcement personnel, community members, and government leaders through COPS Program-funded training organizations; and

WHEREAS, the COPS Program has gone well beyond providing law enforcement agencies with these badly needed additional police officers, as important as that was, and has fundamentally changed policing in America's cities by instituting community policing practices in departments large and small across the nation; and

WHEREAS, in our cities today, mayors and police chiefs understand and appreciate the police-community partnership forged by community policing - how it works to prevent crime and reduce the atmosphere of fear which crime creates, how it earns the trust of the community and involves residents in achieving their own safety, and how it enables police officers to better understand and address both the needs of the community and the factors that contribute to crime; and

WHEREAS, the COPS Office was instrumental in the success of the work of the President's Task Force on 21st Century Policing and is focusing now on the implementation of its recommendation in police departments across the nation,

NOW, THEREFORE BE IT RESOLVED, that The United States Conference of Mayors once again reaffirms its strong support for the COPS Program and urges Congress to provide at a minimum the funding level for FY 2017 requested by the President; and

BE IT FURTHER RESOLVED, The United States Conference of Mayors applauds the COPS Office for its 22 years of working to advance community policing and to address the needs of state, local, and tribal law enforcement agencies.

REDUCING UNNECESSARY USE OF FORCE AND INCREASING OFFICER SAFETY

Resolution Number: 38

Sponsored by:

Karen M. Freeman-Wilson (Gary, Indiana)

WHEREAS, appropriate use of force is fundamental to ensuring constitutional policing and maintaining and strengthening the relationship between the police and the communities they serve; and

WHEREAS, in recent years there have been several visible incidents which have called into question police officers' use of force and have diminished the public's trust in the police, even though these incidents represent a miniscule percentage of police officers' interactions with the public; and

WHEREAS, to examine issues relating to use of force and develop guidance for police departments and police officers, the Police Executive Research Forum (PERF) held four national conferences, conducted a survey of police agencies on their training of officers on force issues; conducted field research in police agencies, and interviewed police trainers and other personnel at all ranks, as well as experts in mental health; and

WHEREAS, based on all of this work, in March 2016, PERF published *Guiding Principles on Use of Force*, which outlines 30 principles designed to provide officers with guidance and options, and to reduce unnecessary uses of force in situations that do not involve suspects armed with firearms, while at the same time increasing officer safety; and

WHEREAS, the 30 principles are organized into four areas:

- **Policy** – 13 policy principles which include embracing the sanctity of human life, adopting de-escalation as agency policy, establishing a duty to intervene with officers who may be using excessive force, prohibiting firing at moving vehicles, and documentation and reporting requirements for use-of-force incident;
- **Training and Tactics** – 11 principles relating to training and tactics in use of force include de-escalation strategies (especially communications); using distance, cover, and time when appropriate; ensuring a strong supervisory response; and training as teams when possible;
- **Equipment** – Four principles pertaining to equipment, including less lethal options such as chemical spray and electronic control weapons and greater use of personal protection shields to increase officer safety during de-escalation efforts;
- **Information Exchange** – Two principles involve training for call-takers and dispatchers, who are critical to every police response, and educating family members of people with mental illness on what to report when they call 9-1-1,

NOW, THEREFORE BE IT RESOLVED that The United States Conference of Mayors commends the Police Executive Research Forum for this important report and encourages mayors to review the report and its 30 guiding principles, and work with their police chiefs to implement those principles appropriate for their department and their officers.

SUPPORTING EXECUTIVE ACTION ON GUN VIOLENCE REDUCTION
Resolution Number: 44

Sponsored by:

Martin J. Walsh (Boston, Massachusetts)

WHEREAS, the nation's mayors believe gun violence is one of the defining challenges of our time, devastating both children and adults, who experience trauma firsthand and carry with them the burden of devastation brought by gun violence throughout their life; and

WHEREAS, nearly 12,000 Americans are murdered with guns every year, a rate that is more than 20 times higher than that of other developed countries; and

WHEREAS, the nation's mayors believe that reducing gun violence and illegal gun trafficking must be accompanied with wraparound support systems that provide access and opportunity to life beyond the shadow of a gun; and

WHEREAS, a large number of people commit crimes when they knowingly attempt to purchase firearms using falsified information in an attempt to get around proper background checks, and unfortunately, few of these cases are referred to ATF field offices for investigation and prosecution, even though they may be quickly investigated by local law enforcement officers; and

WHEREAS, a solution to this growing problem is to ensure that any failed attempt to purchase a gun by a prohibited individual is promptly reported to the local law enforcement agency for a criminal investigation and shared with the individual's home law enforcement agency; and

WHEREAS, even in states that have strong gun laws meant to prevent firearms from falling into the hands of those that are prohibited from possessing them and those that intend to use firearms during the commission of a crime, illegal guns continue to be accessible to criminals due to the ease with which they can be purchased in jurisdictions with less stringent purchasing and possessing laws; and

WHEREAS, identifying and tracing all firearm and ballistic evidence that comes into the possession of a law enforcement agency, and reporting that identifying information to state and federal databases provides all law enforcement agencies the ability to identify the routes through which illegal firearms are trafficked from their point of purchase; and

WHEREAS, gun violence hits especially hard at victims of domestic abuse and domestic violence, with more than half of women killed by intimate partners or family members being killed with a gun; and

WHEREAS, although some measures exist at the state and federal levels to prevent convicted domestic abusers from purchasing firearms through licensed dealers, there are only a handful of states that require domestic abusers to relinquish firearms upon the issuance of a temporary restraining order against them, and strengthening such laws

across the country could save countless lives; and

WHEREAS, the drug trade that is ravaging cities across the country is intimately connected with the illegal trafficking of firearms across state lines, allowing two deadly scourges to become even more dangerously intertwined, resulting in increased gun violence and greater availability of high quality, low cost narcotics; and

WHEREAS, because guns and drugs know no boundaries, forming regional groups of mayors, police chiefs and law enforcement officials, can help expedite the sharing of information and best practices, so that individual communities can rely on the collective expertise of their partners near and far, to reduce illegal gun trafficking between and within their cities,

NOW, THEREFORE, BE IT RESOLVED that The United States Conference of Mayors thanks President Barack Obama and his Administration for taking executive action to address gun violence; and

BE IT FURTHER RESOLVED, that The United States Conference of Mayors encourages mayors and municipal officials to take executive actions of their own to combat gun violence and illegal use and trafficking of guns, by ensuring that all domestic violence and drug abuse prohibiting records are entered into the background check system, by issuing guidance to law enforcement officers to investigate and prosecute cases in which prohibited individuals attempt to purchase guns from licensed dealers and fail a background check, by making every effort to trace every piece of firearm and ballistic evidence that comes into the possession of law enforcement, by instructing law enforcement agencies to share trace data with their colleagues in law enforcement, and by taking every step possible within their authority as chief executives to reduce the flow of illegal firearms and reduce gun violence and gun homicides; and

BE IT FURTHER RESOLVED, that The United States Conference of Mayors encourages mayors to take executive action in their cities such as banning replica handguns that are made to look and feel like real handguns; and

BE IT FURTHER RESOLVED, that The United States Conference of Mayors encourages mayors to engage with legal gun owners to ensure that they know the rules and regulations regarding lost and stolen firearms and that they take appropriate steps to ensure safe and secure storage of all firearms in their possession; and

BE IT FURTHER RESOLVED, that The United States Conference of Mayors encourages governors, attorneys general, and other executives at the state and county levels to take action and to join with mayors across the country in reducing the flow of illegal guns and putting an end to gun violence.

RESOLUTION RECOGNIZING VIOLENCE AS A PUBLIC HEALTH ISSUE
Resolution Number: 16

Sponsored by:

Stephanie Rawlings-Blake (Baltimore, Maryland)

WHEREAS, rates of murder and other violent crime have increased recently; and

WHEREAS, perpetrators of violent crime are often victims of violent crime and trauma themselves, and violence is cyclical; and

WHEREAS, violence thus spreads like an infectious disease, from person to person, broadening in scope; and

WHEREAS, evidence from Baltimore's Safe Streets, a violence interruption model that focuses on specific neighborhoods, shows that treating violence like an infectious disease and intervening and mediating with a public health approach can result in reductions in shootings of up to 44% and killings of up to 56%, and these impacts spread to surrounding communities; and

WHEREAS, evidence from Chicago's Cure Violence, a similar violence interruption model that focuses on specific neighborhoods, shows that treating violence like an infectious disease and intervening and mediating with a public health approach can result in reductions in shootings of between 41% and 73%; and

WHEREAS, by allocating funding directly to local governments and health authorities, funding can be efficiently directed to the areas with greatest need; and

NOW, THEREFORE BE IT RESOLVED, that The United States Conference of Mayors recognizes violence and trauma as public health issues to be addressed with public health responses;

BE IT FURTHER RESOLVED, that The United States Conference of Mayors urges implementation and expansion violence interruption models in cities and neighborhoods affected by high levels of violent crime;

BE IT FURTHER RESOLVED, that The United States Conference of Mayors recognizes that local governments are often in the best position to act quickly in response to public health crises such as this and should therefore receive direct support from the federal government to take further remedial action and expand violence interruption programming;

BE IT FURTHER RESOLVED, that The United States Conference of Mayors supports an increase in funding directly to local jurisdictions with the highest need.

HOMELAND SECURITY FUNDING

Resolution Number: 33

Sponsored by:

Bill de Blasio (New York, New York)
Charlie Hales (Portland, Oregon)
John Giles (Mesa, Arizona)
Martin J. Walsh (Boston, Massachusetts)
Mark W. Mitchell (Tempe, Arizona)
Edwin M. Lee (San Francisco, California)
Stephanie Rawlings-Blake (Baltimore, Maryland)
Eric Garcetti (Los Angeles, California)
John Lewis (Gilbert, Arizona)
Gail Barney (Queen Creek, Arizona)
Sam Liccardo (San Jose, California)
Kevin L. Faulconer (San Diego, California)
Greg Stanton (Phoenix, Arizona)
Carolyn G. Goodman (Las Vegas, Nevada)
Mick Cornett (Oklahoma City, Oklahoma)
Dan Horrigan (Akron, Ohio)
Ed Murray (Seattle, Washington)

WHEREAS, homeland security is a joint responsibility among federal, state and local governments; and

WHEREAS, Mayors are on the frontlines of national defense and share the strong belief that cuts to key homeland security grant programs weaken our ability to adapt and remain nimble in responding to evolving threats; and

WHEREAS, cuts to federal funding programs including the Urban Area Security Initiative (UASI), the State Homeland Security Grant Program (SHSGP) and the National Special Security Event (NSSE) grant program translate into reductions across the spectrum of security and directly jeopardize the safety of citizens across the nation; and

WHEREAS, our cities need flexibility and funding in prevention and preparedness against specific and unknown threats; and

WHEREAS, funding is essential to ongoing counterterrorism operations, investments in public safety communications, training for law enforcement, first responders, public health readiness and overall emergency preparedness; and

WHEREAS, the Administration's FY 2017 budget request proposed almost a 50 percent reduction in funding for the Urban Area Security Initiative (UASI); and

WHEREAS, our local law enforcement agencies provide enormous support through staffing and overtime to the United States Secret Service and Diplomatic Security Service when dignitaries and heads of state visit our cities and do so without federal assistance; and

WHEREAS, this funding has had a positive impact on anti-terrorism efforts and the ability of our cities to combat threats and provide security; and

WHEREAS, investments in security preparedness are crucial for both the safety and security of our residents, as well as the countless tourists who visit our cities,

NOW, THEREFORE, BE IT RESOLVED, that The United States Conference of Mayors urges Congress to maintain current funding levels for UASI and restore funding to the National Special Security Event (NSSE) grant program; and

BE IT FURTHER RESOLVED, that The United States Conference of Mayors encourages the Administration and Congress to recommend appropriate and consistent federal homeland security funding.

**URGING THE PASSAGE OF THE BIPARTISAN CAMPUS ACCOUNTABILITY
AND SAFETY ACT THAT ENSURES COLLEGES AND UNIVERSITIES
PROTECT THEIR STUDENTS FROM SEXUAL ASSAULTS**

Resolution Number: 36

Sponsored by:

Bill de Blasio (New York, New York)
Eric Garcetti (Los Angeles, California)
Charlie Hales (Portland, Oregon)
Rahm Emanuel (Chicago, Illinois)

WHEREAS, each year tens of thousands of women who attend college in the U.S. become survivors of sexual assault, yet colleges and universities lack any real incentive to investigate these incidents or comply with federal reporting standards; and

WHEREAS, 80 percent of rape, stalking, and sexual assault victimizations against female students ages 18-24 go unreported to police; and

WHEREAS, most cases of campus sexual assault are not instances of "stranger rape;" but are rather acts of dating violence or intimate partner violence; 78 percent of campus sexual assaults are perpetrated by someone the victim knows; and

WHEREAS, it was found that 73 percent of institutions of higher education have no protocols on how the institution and law enforcement work together to respond to campus sexual violence or stalking; and law enforcement officials at 30 percent of institutions of higher education receive no training on how to respond to reports of sexual violence; and

WHEREAS, confidential reporting options facilitate reporting of campus sexual assault to police and campus authorities; and

WHEREAS, under Title IX, colleges and universities have a legal obligation to provide an environment that is free from sexual harassment, which includes sexual violence; and the federal Clery Act requires disclosure of crime statistics to the federal government; and

WHEREAS, due to little enforcement colleges and universities have a perverse incentive to under-report the cases of sexual violence and stalking that occur on their campuses and ignore the problem; and

WHEREAS, according to a 2014 survey, 41 percent of colleges and universities surveyed had not conducted an investigation of a sexual assault complaint in the last five years; and

WHEREAS, in those instances where a survivor of sexual assault chooses to go through a student disciplinary process, it is often done in an inconsistent and uninformed manner with untrained personnel and/or students being asked to consider serious accusations without the proper training; and

WHEREAS, survivors of sexual violence and stalking on campuses are often not

provided with access to victim-centered, trauma-informed advocacy or services; and

WHEREAS, the system is broken and we must take action to fix it; and

WHEREAS, a bipartisan congressional coalition has introduced legislation to flip the incentives so that colleges and universities will protect students; and

WHEREAS, The Campus Accountability and Safety Act (S.590/HR.1310) introduced by Senator Claire McCaskill (MO) and Congresswoman Carolyn Maloney (NY) will increase support services to empower survivors, improve training for campus personnel, standardize disciplinary proceedings on campuses, require schools to be more transparent and require all schools to administer a confidential survey with published results, hold colleges and universities accountable for addressing and reporting assault cases, and require better coordination with local law enforcement,

NOW, THEREFORE, BE IT RESOLVED that The United States Conference of Mayors urges Congress to quickly pass, and for the President to sign into law, The Campus Accountability and Safety Act, in order to reform the way colleges and universities report and address cases of sexual violence and stalking so that survivors are guaranteed victim-centered and trauma-informed advocacy and services, survivors and the accused have access to a fair investigative and disciplinary process, students and staff understand their rights, options, and responsibilities, and students and parents have access to new campus safety data.

IMPROVING THE INTERSECTIONS BETWEEN THE MENTAL HEALTH AND CRIMINAL JUSTICE SYSTEMS

Resolution Number: 15

Sponsored by:

Karen M. Freeman-Wilson (Gary, Indiana)

WHEREAS, the risk of violence attributable to serious mental illness is estimated to be 3 to 5 percent, comparable to rates among persons without mental illness, yet the perpetrators of the nation's most visible mass shootings, including those that occurred at Sandy Hook, Aurora, Virginia Tech, and Columbine were considered to be suffering from serious mental illness; and

WHEREAS, as a result of these and other tragic events much attention is being paid to the intersections between the criminal justice and mental health systems, the failings of mental health systems, the fact that people with mental illnesses are over-represented at every stage of the criminal justice system, and role which the criminal justice system is playing as a provider of mental health services; and

WHEREAS, this attention has also demonstrated that the intersection of the mental health and criminal justice systems is extremely complex, there are many unknowns, and a thorough examination is warranted; and

WHEREAS, in some instances seriously mentally ill people badly in need of treatment have been unable to get it because they are not considered a danger to themselves or someone else or because treatment beds are unavailable; and

WHEREAS, on a daily basis police officers interact with mentally ill people, often do not have the training, authority or resources to adequately deal with the problems they face or refer them to the services they need, and thus end up being forced to arrest them for often minor offenses, as much for their own safety as for the public's safety; and

WHEREAS, each year an estimated 2 million people with serious mental illnesses are admitted to jails across the nation; almost three-quarters of these adults also have co-occurring drug and/or alcohol use disorders; once incarcerated, individuals with mental illnesses tend to stay longer in jail, and, upon release, are at a higher risk of returning to incarceration than those without these illnesses - all of this resulting in a staggering human toll and cost to taxpayers; and

WHEREAS, often people with serious mental illnesses are incarcerated, oftentimes for minor offenses, when they would be better served in the community, and though jails have a constitutional mandate to treat the mental illnesses of their inmates, they are often ill-equipped to meet their needs, or even to assess what those needs might be; and

WHEREAS, jails spend two to three times more money on adults with mental illnesses than on those without those needs, yet they often do not see a return on those investments in terms of improved public safety or health of those individuals, and although states and localities have made tremendous efforts to address this problem, they are often thwarted by significant obstacles, including inadequate data to inform policy changes, minimal

resources, and a lack of coordination between criminal justice, mental health, substance use treatment, and other agencies; and

WHEREAS, for individuals with mental illnesses, contact with the criminal justice system often starts a cycle of arrest, incarceration, release, and re-arrest that can pose nearly insurmountable challenges to recovery, and as they face increasingly serious charges, or fail to comply with conditions of release, prisons become the institutional homes for these individuals, even though most criminal justice and community-based treatment personnel agree that corrections environments are poor settings for individuals with mental illnesses; and

WHEREAS, bipartisan legislation is pending in Congress which could help to alleviate these problems, bills which would:

- Reauthorize and strengthen the National Instant Criminal Background Check System;
- Allow state and local governments to create pre-trial screening and assessment programs to identify offenders with mental illness;
- Require the Attorney General to direct federal judges to operate mental health court pilot programs and require state and local governments to use drug and mental health court funding to develop specialized programs for those with co-occurring mental health and substance abuse problems;
- Mandate specialized training and the use of new technology to ensure that those who work in the criminal justice system are properly equipped to respond to individuals with mental illness and mental illness crisis;
- Continue federal support for mental health courts, crisis intervention teams, and corrections-based services for people with mental illness;
- Invest in veterans treatment courts; and
- Train local, state, and federal law enforcement officers on how to recognize and respond appropriately to mental health crises training that protects police officers and saves lives,

NOW, THEREFORE BE IT RESOLVED, that The United States Conference of Mayors urges quick action by Congress on legislation that would help to improve and reduce the interactions between mentally ill individuals and the criminal justice system and instead provide these individuals with the help they need in an appropriate setting so that they can live in their communities as contributing members of society; and

BE IT FURTHER RESOLVED, that the U.S. Conference of Mayors urges that a thorough national study be conducted so that our nation can thoroughly understand the nature this complex problem, including legal and other barriers that may exacerbate it, and identify responses are working and actions that governments at all levels working with the private sector can do to alleviate it.

**SUPPORTING MENTAL HEALTH AS A KEY COMPONENT FOR
SUCCESSFUL REENTRY AND REDUCING RECIDIVISM AS PART OF
COMPREHENSIVE CRIMINAL JUSTICE REFORM**

Resolution Number: 35

Sponsored by:

Bill de Blasio (New York, New York)
Eric Garcetti (Los Angeles, California)
Charlie Hales (Portland, Oregon)

WHEREAS, approximately 20 percent of state prisoners and 21 percent of local jail prisoners have experienced a mental health condition; and

WHEREAS, of youth in the juvenile justice system, 70 percent have at least one mental health condition and at least 20 percent live with a serious mental illness; and

WHEREAS, often disruptive or inappropriate behavior among juveniles is the result of a mental health disorder that has gone unidentified and untreated; and

WHEREAS, for many of the incarcerated suffering with a mental illness, the criminal justice system is their first and only opportunity to receive care; and

WHEREAS, mental illness is a contributing factor to recidivism, as nearly a quarter of state and local jail inmates with a mental health problem have served three or more prior incarcerations; and

WHEREAS, state prisoners with a mental health issue are twice as likely as those without to be homeless in the year before their arrest; and

WHEREAS, jail inmates with a mental health problem are three times as likely to report being physically or sexually abused in the past; and

WHEREAS, an average of only one in three state prisoners and one in six jail inmates with a mental health problem have received treatment since admission; and

WHEREAS, access to mental health services will help many of the estimated 600,000 individuals released from prisons annually to reenter society and be productive members of the community,

THEREFORE, BE IT RESOLVED, The U.S. Conference of Mayors calls on Congress to take action on the Sentencing Reform and Corrections Act of 2015 (S.2123).

**SUPPORTING INVESTMENTS IN UNDERSERVED COMMUNITIES WITH
SAVINGS FROM SENTENCING REFORM**

Resolution Number: 41

Sponsored by:

Rahm Emanuel (Chicago, Illinois)
Stephanie Rawlings-Blake (Baltimore, Maryland)
Eric Garcetti (Los Angeles, California)
Bill de Blasio (New York, New York)
Karen M. Freeman-Wilson (Gary, Indiana)
Leon Rockingham Jr. (North Chicago, Illinois)
Ed Murray (Seattle, Washington)

WHEREAS, over the past 25 years, the U.S. prison and jail population reached an all-time high and the number of people on probation and parole doubled; and

WHEREAS, the U.S. has one of the highest incarceration rates in the world; America's prison population has increased by 500 percent over the past 30 years, and today, nearly one in 100 American adults is incarcerated; and

WHEREAS, evidence and experience have shown that harsh sentencing and strict penalties designed to combat the distribution of illegal drugs did little to stem the drug trade, and swept low-level non-violent drug offenders into the growing criminal justice system; and

WHEREAS, these incarceration policies have had a markedly disproportionate impact on communities of color, with the Federal Bureau of Prisons reporting that 37 percent of its current prison population is African American and thirty-four percent is Latino; and

WHEREAS, many of our cities face a vicious cycle of poverty, criminality, and incarceration that traps too many Americans and weakens too many communities; and

WHEREAS, bipartisan legislation that would reform the federal criminal justice system to make it, fairer, smarter and more cost-effective, while keeping the American people safe and secure, is awaiting floor action in both the Senate and the House; and

WHEREAS, investing in neighborhoods and youth most impacted by mass incarceration - including neighborhood economic development and job creation, youth mentoring, afterschool and summer jobs programs, support services for those returning from incarceration - works to prevent violence, create economic opportunities, and widen the path to the middle-class, and advance neighborhood safety; and

WHEREAS, every year, we spend \$80 billion to keep people locked up, and previous estimates show that federal sentencing reform legislation could save the government nearly \$24 billion over 20 years; and

WHEREAS, these savings from sentencing reform legislation can be utilized to help our neighborhoods and communities,

NOW, THEREFORE BE IT RESOLVED, that The U.S. Conference of Mayors calls on Congress to quickly pass national sentencing reform bills; and

BE IT FURTHER RESOLVED, that The U.S. Conference of Mayors urges Congress to reinvest at least 50 percent of the billions of dollars in projected savings from sentencing reform in programs and services for communities that need investment most, including youth mentoring, afterschool, summer jobs, education attainment, economic development and support services for individuals returning from incarceration.

IN SUPPORT OF THE FAIR CHANCE ACT

Resolution Number: 42

Sponsored by:

Paul Soglin (Madison, Wisconsin)

Karen M. Freeman-Wilson (Gary, Indiana)

WHEREAS, more than 70 million Americans with criminal backgrounds face significant barriers to employment as a direct result of an arrest or criminal conviction since this population is often overlooked by potential employers without consideration of skill or qualification; and

WHEREAS, these challenges limit formerly incarcerated Americans' access to job opportunities and thereby increase the likelihood of recidivism at a great cost to taxpayers in cities across the country; and

WHEREAS, mayors understand that we must rethink our approach to criminal justice in order to better serve these individuals as they reenter our communities; and

WHEREAS, countless cities have enacted a local "Ban the Box" policy in order to better enable people with criminal records to overcome the barrier of having to check the box demonstrating that they have a past felony conviction on job applications; and

WHEREAS, these reforms will save American taxpayer dollars while restoring liberty and justice to this often marginalized population; and

WHEREAS, Senator Cory Booker introduced the Fair Chance to Compete for Jobs Act of 2015, also known as the Fair Chance Act, a bipartisan bill that seeks to address systematic barriers; and

WHEREAS, the bill was unanimously passed by the Senate Homeland Security and Governmental Affairs Committee in October 2015; and

WHEREAS, Senator Booker understands the urgent need for reform as he dealt with this critical issue firsthand during his service as Mayor of the City of Newark, New Jersey from 2006 to 2013, prior to his election to the United States Senate; and

WHEREAS, the legislation will help formerly incarcerated Americans seeking employment with federal agencies or government contractors by moving the criminal history inquiry to the conditional offer stage toward the end of the hiring process,

NOW, THEREFORE BE IT RESOLVED, that The U.S. Conference of Mayors thanks Senator Booker for his leadership on this bipartisan bill; and

BE IT FURTHER RESOLVED, that The U.S. Conference of Mayors calls upon the United States Congress to pass the Fair Chance Act and for President Obama to subsequently sign and enact this legislation.

IN SUPPORT OF FAIR CHANCE EMPLOYMENT

Resolution Number: 47

Sponsored by:

Luke Bronin (Hartford, Connecticut)

WHEREAS, an estimated 70 million or more Americans have some kind of criminal record; and

WHEREAS, a prior conviction reduces the likelihood of a follow-up interview or job offer by nearly one-half; and

WHEREAS, each year, more than 600,000 individuals are released from Federal and State prisons, and millions more are released each year from local jails; and

WHEREAS, the decreased output of goods and services from those with criminal records results in an estimated \$57 to \$65 billion in losses to our national economy annually; and

WHEREAS, nationwide more than 100 cities and counties as well as more than 20 states, have adopted "ban the box" policies to encourage employers to put a candidate's qualifications first; and

WHEREAS, at the federal level, President Obama has supported a "ban-the-box" policy in directing federal agencies to wait until later in the hiring process to look into job applicants' records; and

WHEREAS, President Barack Obama has also called on private businesses to sign onto the Fair Chance Business Pledge - a call-to-action for all members of the private sector to improve their communities by eliminating barriers for those with a criminal record and create a pathway for a second chance,

NOW, THEREFORE, BE IT RESOLVED, that The United States Conference of Mayors urges support for fair chance employment by (1) encouraging employers to sign onto President Obama's Fair Chance Employment Pledge; (2) adopting "ban the box" policies that encourage employers to put a candidate's qualifications first; and (3) advocating for policy changes that help formerly incarcerated individuals get the professional licenses and tools they need to receive a fair shot at second chance employment opportunities.

MAYORS UNITED AGAINST DISCRIMINATION

Resolution Number: 46

Sponsored by:

Edwin M. Lee (San Francisco, California)
Bill de Blasio (New York, New York)
Eric Garcetti (Los Angeles, California)
Stephanie Rawlings-Blake (Baltimore, Maryland)
Dan Horrigan (Akron, Ohio)
Charlie Hales (Portland, Oregon)
Muriel Bowser (Washington, District of Columbia)
Bob Buckhorn (Tampa, Florida)
Kasim Reed (Atlanta, Georgia)
Paul Soglin (Madison, Wisconsin)
Christopher L. Cabaldon (West Sacramento, California)
Rahm Emanuel (Chicago, Illinois)
Martin J. Walsh (Boston, Massachusetts)
Greg Stanton (Phoenix, Arizona)
Ed Murray (Seattle, Washington)

WHEREAS, despite important recent progress including the U.S. Supreme Court's decision holding that the right to marry is guaranteed to same-sex couples, individuals across the country continue to face discrimination in many aspects of their lives; and

WHEREAS, in many parts of America today, an LGBT individual can legally marry yet still risk being fired for wearing their wedding ring to work, or be legally denied services based solely on who they love; and

WHEREAS, there has been a troubling recent trend of instances of government-sanctioned discrimination; and

WHEREAS, governments around the country have recently passed or are currently considering legislation codifying intolerance, including by limiting access for portions of their populations to facilities such as restrooms or services such as mental health counseling based on their gender identity, sexual orientation, or other characteristics; and

WHEREAS, mayors have always been on the frontline of progress and change; and

WHEREAS, while the primary responsibility of mayors is protecting the rights and safety of their own diverse residents, they must not stand idly by as discriminatory practices are permitted and institutionalized in communities across the country; and

WHEREAS, action is also needed at the federal level to ensure broader protections for equal rights, including through the passage of H.R. 3185, the Equality Act, which seeks to establish protections against discrimination based on an individual's sexual orientation or gender identity in all areas of federal civil rights law, including in matters of employment, housing, and education,

NOW, THEREFORE, BE IT RESOLVED, that The U.S. Conference of Mayors encourages cities and states around the country to take action to ensure inclusiveness in their own cities, and to use their collective voices and resources to oppose discrimination across America; and

BE IT FURTHER RESOLVED, that The U.S. Conference of Mayors urges Congress to join the fight against discrimination by passing historic legislation such as the Equality Act and conclusively affirm acceptance and inclusion nationwide.

**URGING THE PASSAGE OF THE RESTORE HONOR TO SERVICE
MEMBERS ACT THAT ENSURES ALL LGBT VETERANS HAVE
OPPORTUNITY TO AFFIRM THEIR HONORABLE SERVICE**

Resolution Number: 34

Sponsored by:

Bill de Blasio (New York, New York)
Eric Garcetti (Los Angeles, California)
Rahm Emanuel (Chicago, Illinois)
Buddy Dyer (Orlando, Florida)
Charlie Hales (Portland, Oregon)
Ed Murray (Seattle, Washington)

WHEREAS, since World War II, more than 100,000 individuals are estimated to have been forced out of the military with discharge statuses of "other than honorable", "general discharge", or "dishonorable" due to their sexual orientation; and

WHEREAS, now thousands of LGBT veterans are tarnished with discharge statuses other than honorable, which affects both their access to benefits they earned during service and their opportunities in civilian life, potentially hindering employment opportunities and the right to vote; and

WHEREAS, even those service members who were discharged honorably after the passage of "Don't Ask, Don't Tell" are still at risk of discrimination because the reason for their discharge may indicate their sexual orientation, threatening their privacy when they share their separation paperwork with potential employers and landlords; and

WHEREAS, while the Department of Defense (DoD) has taken important steps by allowing members to appeal their discharge characterization and change their discharge narrative, the process remains onerous for service members, often requiring them to retain legal counsel to help them navigate red tape, and produce paperwork and other evidence that service members may not have; and

WHEREAS, our service members and veterans deserve a straightforward and accessible process to ensure their honorable service is reflected in their records; and

WHEREAS, U.S Senator Brian Schatz and U.S. Representative Mark Pocan introduced The Restore Honor to Service Members Act (S.1766/HR.3068), which would streamline and codify the current Department of Defense policy, ensuring all LGBT service members have the opportunity to correct their record, affirm their honorable service, and clarify that a review cannot be denied solely based on a lack of documentation,

NOW, THEREFORE, BE IT RESOLVED, that The U.S Conference of Mayors urges Congress to quickly pass, and the President to sign into law The Restore Honor to Service Members Act in order to ensure our LGBT veterans see their service recognized and honored at last.

**SUPPORT FOR MUSLIM COMMUNITIES, FAIR AND HUMANITARIAN
POLICY FOR REFUGEE RESETTLEMENT, AND AFFIRMING THE
RELIGIOUS PLURALISM OF THE UNITED STATES**

Resolution Number: 32

Sponsored by:

Bill de Blasio (New York, New York)
Eric Garcetti (Los Angeles, California)
Charlie Hales (Portland, Oregon)
Rahm Emanuel (Chicago, Illinois)
Ed Murray (Seattle, Washington)

WHEREAS, The United States Constitution guarantees religious liberties and civil rights under the First and Fourteenth Amendments; and

WHEREAS, The United States has a strong tradition of providing safe haven, freedom, and opportunity to refugees fleeing the world's most dangerous and desperate situations; and

WHEREAS, rates of hate violence, xenophobic rhetoric, and discriminatory actions which target and threaten the safety and freedom of the Muslim community are at record highs across the United States; and

WHEREAS, cities across The United States find such hateful and xenophobic rhetoric to be contrary to the American principles of religious freedom and immigrant integration; and

WHEREAS, cities across The United States have greatly benefited from the economic and social contributions and the cultural and religious diversity of Muslim and other immigrant and refugee communities; and

WHEREAS, mayors from across the country have joined forces to demonstrate support for accepting Syrian refugees and increasing the number for resettlement in the United States; and

WHEREAS, mayors from across the country have voiced opposition to unlawful attempts by State Governors to refuse resettlement of Syrian refugees; and

WHEREAS, U.S. Representative Don Beyer introduced the Freedom of Religion Act of 2016 (H.R. 5207), which would amend the Immigration and Nationality Act to prohibit denying admission to the United States because of an individual's religion or lack of religious beliefs; and

NOW, THEREFORE BE IT RESOLVED, that The U.S. Conference of Mayors urges the Administration to expeditiously fulfill its pledges to resettle 10,000 Syrian refugees by September 30, 2016, to increase the total number of refugee admissions to 100,000 in 2017, and to further increase the number for resettlement in the United States; and

BE IT FURTHER RESOLVED, that The U.S. Conference of Mayors supports the Freedom of Religion Act of 2016 (H.R. 5207), which would amend the Immigration and Nationality Act to prohibit denying admission to The United States because of an individual's religion or lack of religious beliefs,

BE IT FURTHER RESOLVED, that The U.S. Conference of Mayors opposes the Refugee Program Integrity Restoration Act of 2016 (H.R. 4731) introduced by U.S. Representative Raoul Labrador which would severely restrict the current refugee admission system, including by capping refugee admissions at a time of multiple humanitarian crises, granting states and localities an improper and dangerous authority to veto resettlements; and

BE IT FURTHER RESOLVED, that the U.S. Conference of Mayors opposes all forms of discrimination and hate speech based on an individual's religion and country of origin; and

BE IT FURTHER RESOLVED, that the U.S. Conference of Mayors will continue to welcome Muslims as residents of the United States, and to reaffirm the freedom of religion and the right to live without fear and intimidation.

SUPPORTING COMPREHENSIVE IMMIGRATION REFORM

Resolution Number: 45

Sponsored by:

Jim Kenney (Philadelphia, Pennsylvania)
Greg Stanton (Phoenix, Arizona)
Dan Horrigan (Akron, Ohio)
Francis G. Slay (St. Louis, Missouri)
Eric Garcetti (Los Angeles, California)
Stephanie Rawlings-Blake (Baltimore, Maryland)
Edwin M. Lee (San Francisco, California)
Luke Bronin (Hartford, Connecticut)
Rahm Emanuel (Chicago, Illinois)
Martin J. Walsh (Boston, Massachusetts)
Bill de Blasio (New York, New York)
Charlie Hales (Portland, Oregon)
Ed Murray (Seattle, Washington)

WHEREAS, The United States Conference of Mayors has recognized that immigrants bring significant social, economic, and cultural benefits to communities nationwide; and

WHEREAS, immigration contributes \$90 billion to the nation's GDP; and

WHEREAS, local governments have been on the frontlines helping to integrate immigrants into their communities and connecting immigrants with critical job and community resources; and

WHEREAS, the President of The United States has indicated support for comprehensive immigration reform and signed an Executive Order, which allowed undocumented immigrant parents to request a temporary stay from deportation through the Deferred Action for Parental Accountability (DAPA) program and removed the age limit for undocumented immigrants to apply for the Deferred Action for Childhood Arrivals (DACA) program;

WHEREAS, the Supreme Court is expected to rule on the President's Executive Order regarding immigration policy on June 30,

WHEREAS, The United States Conference of Mayors has repeatedly passed previous resolutions supporting immigration reform that includes:

- Strengthening our borders and providing law enforcement agencies the necessary tools to needed to enforce immigration laws;
- Establishing a streamlined visa process to efficiently process seasonal, agricultural, lesser-skilled and high skilled workers; and
- Implementing an earned pathway to citizenship for the estimated 11.4 million undocumented immigrants.

NOW, THEREFORE, BE IT RESOLVED, that The United States Conference of

Mayors reaffirms its existing policy calling on Congress to support comprehensive immigration legislation and urges the Supreme Court to uphold the President's Executive Order.

EB-5 IMMIGRANT INVESTOR PROGRAM

Resolution Number: 37

Sponsored by:

Mike Rawlings (Dallas, Texas)

WHEREAS, EB-5 is the designation for the fifth employment-based preference immigrant visa category established by Congress in 1990; and

WHEREAS, Congress established the Immigrant Investor Pilot Program in 1992 to create regional centers which aid foreign investors, by directing and professionally managing their investments while concentrating pooled investments in defined distressed economic zones; and

WHEREAS, EB-5 allocates 10,000 visas annually to foreign investors and their families who invest at least \$1 million (or \$500,000 in a targeted employment area) which must generate at least 10 jobs; and

WHEREAS, EB-5 has become a vital source of urban redevelopment funds; and

WHEREAS, from FY1992 to present, the EB-5 visa has generated more than \$16.2 billion in investments; and

WHEREAS, that investment has supported over 171,000 American jobs; and

WHEREAS, as of February 2016, there were 796 approved regional centers across the United States; and

WHEREAS, at the end of Q1 FY2016 there were about 22,000 pending applications for EB-5 related visas, representing nearly \$11 billion in potential direct investment and 220,000 American jobs; and

WHEREAS, the EB-5 program had record-breaking capital formation in FY2015 and Q1 FY2016 with over \$4.3 billion and \$628.5 million in foreign direct investment respectively; and

WHEREAS, in 2015 Congress passed legislation to reauthorize the EB-5 regional center program through September 30, 2016; and

WHEREAS, mayors are working with private parties to use EB-5 foreign direct investment to finance job creating projects and downtown revitalization projects; and

WHEREAS, any effort to extend or make permanent the EB-5 regional center program must balance investment in urban centers and rural areas in recognition of the potential benefits of the program in both; and

WHEREAS, without Congressional action the EB-5 regional center program will sunset

on September 30, 2016,

NOW, THEREFORE BE IT RESOLVED, that The United States Conference of Mayors urges Congress to reauthorize the EB-5 regional center program through legislation including additional visa capacity, ensuring that any reform of the EB-5 regional center program maintains the ability to deliver job-creating capital to urban areas, includes permanent authorization of the regional center program, avoids retroactive application of new law on matters already filed, allows for economic impact models to be used in measuring job creation, improves processing systems to address backlogged petitions, streamlines approvals for all applications, and enhances program integrity measures through improved reporting requirements and oversight that is not unduly burdensome.

IN SUPPORT OF THE EB-5 IMMIGRANT INVESTOR PROGRAM

Resolution Number: 40

Sponsored by:

Stephen K. Benjamin (Columbia, South Carolina)

WHEREAS, Congress established the Immigrant Investor Pilot Program in 1992 to create regional centers which provide professional management of EB-5 investments in defined distressed economic zones; and

WHEREAS, in 2015 Congress passed legislation to reauthorize this Program through September 30, 2016; and

WHEREAS, this Program allocates 10,000 visas annually to foreign investors and their families who invest at least \$1 million (or \$500,000 in a targeted employment area) in projects which generate at least 10 jobs per investor; and

WHEREAS, this Program has been an important source of funds for projects in many urban areas; and

WHEREAS, there is a strong demand by Mayors to obtain greater availability of EB-5 investments pursuant to this Program to finance job creating projects in urban areas that could not otherwise be funded; and

WHEREAS, urban centers are increasingly becoming venues of new industries and approaches that create a greater than average multiplier of jobs, taxes, sustainability, and thereby generate a disproportionate economic benefit for the entire U.S. economy; and

WHEREAS, there is also an urgent need to develop and upgrade infrastructure in urban areas and other areas throughout the United States; and

WHEREAS, there is a unique opportunity in extending this Program beyond September 20, 2016 to also enhance its availability to Mayors, and to generate significant investments in U.S. infrastructure; and

WHEREAS, The United States Conference of Mayors, through both United States Conference of Mayors and individually, can make a unique contribution to the Congressional discussions regarding the Program extension;

NOW, THEREFORE BE IT RESOLVED, that The United States Conference of Mayors urges Congress to reauthorize the Immigrant Investor Pilot Program and also to modify the Program to enhance the potential to better attract EB-5 investment to (i) projects in a broad range of urban communities that need such investment; and (ii) a broad range of infrastructure projects in all areas of the United States; and

BE IT FURTHER RESOLVED, that the United States Conference of Mayors is prepared to advise and assist Congress in evaluating the best approaches to achieving these goals.

RESOLUTION SUPPORTING STATEHOOD FOR WASHINGTON, DC

Resolution Number: 48

Sponsored by:

Muriel Bowser (Washington, District of Columbia)

Karen M. Freeman-Wilson (Gary, Indiana)

Bill de Blasio (New York, New York)

Tony T. Yarber (Jackson, Mississippi)

Stephanie Rawlings-Blake (Baltimore, Maryland)

Paul Soglin (Madison, Wisconsin)

WHEREAS, there are currently more than 672,000 residents in Washington, DC, a population larger than the states of Wyoming and Vermont; and

WHEREAS, residents of Washington, DC are required to and do perform all the obligations of United States citizenship including serving in the military, serving on federal juries, and paying federal taxes; and

WHEREAS, 29,000 residents of Washington, DC are veterans yet do not have any voting members of Congress to represent them; and

WHEREAS, residents of Washington, DC paid more than \$26.4 billion in taxes in 2014, more than 22 states; and

WHEREAS, the government of Washington, DC has long demonstrated the capacity for self-government and financial responsibility, including high bond ratings and balanced budgets for the last 21 years; and

WHEREAS, Washington, DC operates as a city, county, and state government and already performs the tasks and duties assigned to states, including administering state health and human service programs, federal block grant programs, a Department of Motor Vehicles, an education system, transit and transportation systems, and public safety and homeland security duties; and

WHEREAS, Congress has total control over Washington, DC's policies, including the ability to overturn laws enacted by the District's duly-elected Council and passed by referendum with the support of a majority of residents; and

WHEREAS, the residents of Washington, DC have no voice over what wars are declared, how their federal tax contributions are spent, how their taxes are to be collected, and how any of the vital national issues affecting residents on a daily basis are to be resolved; and

WHEREAS, Congress has the ability to make changes to Washington, DC's spending of locally-raised dollars by inserting riders on DC's budget; and

WHEREAS, the residents of Washington, DC desire to become a full state, with full

voting representation in Congress and full autonomy from Congress; and

WHEREAS, The United States Conference of Mayors advocates for the power of local control for municipalities and their governments; and

WHEREAS, The United States Conference of Mayors supports democracy for all residents in the United States of America; and

WHEREAS, as early as 1979 The United States Conference of Mayors called for full voting rights for the citizens of the District of Columbia,

NOW, THEREFORE, BE IT RESOLVED, that The United States Conference of Mayors supports statehood for Washington, DC.

ONE HUNDRED BILLION ACTS OF KINDNESS FOR AMERICA

Resolution Number: 43

Sponsored by:

Miguel A. Pulido (Santa Ana, California)

Tom Tait (Anaheim, California)

Greg Fischer (Louisville, Kentucky)

WHEREAS, his Holiness the 14th Dalai Lama is attending the U.S. Conference of Mayors 84th Annual Meeting; and

WHEREAS, his Holiness is advocating a policy of compassion and kindness; and

WHEREAS, kindness is a virtue that seeks to serve and help others through selfless acts and asks nothing in return; and

WHEREAS, the Cities of Anaheim, Santa Ana, Louisville and Seattle and others have embraced kindness as its core value and have challenged our residents, businesses and visitors to embrace and model kindness in their interactions with others, and

WHEREAS, our city businesses have responded to the call for kindness with new mentoring programs through which business leaders have already mentored 700 students and have been exposed to a wide variety of industries and personal development, and

WHEREAS the Santa Ana Police Department has adopted thousands of children in the community and mentored them through the Police Assistance League, and

WHEREAS, the Anaheim Police Department has embraced kindness in a new approach to drug offenders called Drug Free Anaheim, whereby a drug addict who wants to get clean can turn himself in to the Police Department, and will get an immediate referral to a drug recovery program, and

WHEREAS, the Anaheim Elementary School District of 24,000 students wanted to show students the power of kindness and so launched a "One Million Acts of Kindness Campaign", and had all its schools participate, resulting in a 50 percent cut in calls for disciplinary action during the year of this campaign, and

WHEREAS, in Anaheim, more than 45,000 high school students in the local high school district launched Serve Day on Martin Luther King Jr. Day and over the last two years this has resulted in a greater increase in volunteerism throughout the city, including visits to nursing homes by high school bands, cleanup of parks and public streets by local youth and

WHEREAS, the one hundred billion acts of kindness initiative, initiated by the Orange County Department of Education, seeks to amplify civility, promote character development and create more positive school climates throughout Orange County and beyond; and

WHEREAS, students consistently participating in acts of kindness are far more likely to

build character, increase school attendance, improve student behavior, persist in school, graduate from high school, earn post-secondary degrees, and pursue successful adult lives in families, communities and careers; and

WHEREAS, reaching the ambitious goal of recording One Hundred Billion Acts of Kindness necessitates a broad coalition of individuals and organizations working together toward a single outcome; and

WHEREAS, the Cities of Santa Ana and Anaheim, by adopting a culture of kindness, have demonstrated that social capital is of high importance in helping improve the conditions of the lives of those we serve in cities, and allowing kindness to be a value that is embraced and practiced can change the fabric of a city for the better, and building up social connections among people,

NOW, THEREFORE BE IT RESOLVED, mayors of The U.S. Conference of Mayors join together to call on all the nation's cities, businesses and schools to adopt a culture of kindness in their communities, building up the social infrastructure and making our cities resilient, happier, and healthier; and

BE IT FURTHER BE RESOLVED, that as a nation we target one hundred billion acts of kindness across America.



THE UNITED STATES CONFERENCE OF MAYORS

1620 EYE STREET, NORTHWEST
WASHINGTON, D.C. 20006
TELEPHONE (202) 293-7330
FAX (202) 293-2352
TDD (202) 293-9445
URL: www.usmayors.org/uscm

CRIMINAL AND SOCIAL JUSTICE COMMITTEE

June 24, 2016

White River Ballroom I-J, 1st level
JW Marriott Indianapolis

AGENDA

3:45PM

CALL TO ORDER, INTRODUCTIONS

KAREN FREEMAN-WILSON

Mayor of Gary

Chair

CONSIDERATION OF SUBMITTED RESOLUTIONS

39 THE COPS PROGRAM

38 REDUCING UNNECESSARY USE OF FORCE AND INCREASING
OFFICER SAFETY

44 SUPPORTING EXECUTIVE ACTION ON GUN VIOLENCE
REDUCTION

#16 RESOLUTION RECOGNIZING VIOLENCE AS A PUBLIC HEALTH
ISSUE

#33 HOMELAND SECURITY FUNDING

#36 URGING THE PASSAGE OF THE BIPARTISAN CAMPUS
ACCOUNTABILITY AND SAFETY ACT THAT ENSURES COLLEGES AND
UNIVERSITIES PROTECT THEIR STUDENTS FROM SEXUAL ASSAULTS

#15 IMPROVING THE INTERSECTIONS BETWEEN THE MENTAL
HEALTH AND CRIMINAL JUSTICE SYSTEMS

#35 SUPPORTING MENTAL HEALTH AS A KEY COMPONENT FOR
SUCCESSFUL REENTRY AND REDUCING RECIDIVISM AS PART OF
COMPREHENSIVE CRIMINAL JUSTICE REFORM

#41 SUPPORTING INVESTMENTS IN UNDERSERVED COMMUNITIES
WITH SAVINGS FROM SENTENCING REFORM

#42 IN SUPPORT OF THE FAIR CHANCE ACT

#47 IN SUPPORT OF FAIR CHANCE EMPLOYMENT

#46 MAYORS UNITED AGAINST DISCRIMINATION

#34 URGING THE PASSAGE OF THE RESTORE HONOR TO SERVICE
MEMBERS ACT THAT ENSURES ALL LGBT VETERANS HAVE
OPPORTUNITY TO AFFIRM THEIR HONORABLE SERVICE

#32 SUPPORT FOR MUSLIM COMMUNITIES, FAIR AND
HUMANITARIAN POLICY FOR REFUGEE RESETTLEMENT, AND
AFFIRMING THE RELIGIOUS PLURALISM OF THE UNITED STATES
#45 SUPPORTING COMPREHENSIVE IMMIGRATION REFORM
#37 EB-5 IMMIGRANT INVESTOR PROGRAM
#40 IN SUPPORT OF THE EB-5 IMMIGRANT INVESTOR PROGRAM
#48 RESOLUTION SUPPORTING STATEHOOD FOR WASHINGTON, DC
#43 ONE HUNDRED BILLION ACTS OF KINDNESS FOR AMERICA

CONSIDERATION OF NEW RESOLUTIONS

REMARKS

Inclusiveness and Opportunity - Charlotte Moving Forward

JENNIFER W. ROBERTS

Mayor of Charlotte

Ban-the-Box Initiatives in Los Angeles

ERIC GARCETTI

Mayor of Los Angeles

Preventing and Responding to Terrorism in Cities

MARTIN J. WALSH

Mayor of Boston

Update on FirstNet

TJ KENNEDY

President

FirstNet

OTHER BUSINESS

5:00 PM

ADJOURN



MURIEL BOWSER
MAYOR

June 20, 2016

Greetings Mayors:

This weekend, as Mayors from across the country convene in Indianapolis, IN to discuss the most pressing issues facing our cities, I urge you to consider one unique to District of Columbia residents that I am putting forth in a resolution this year: our quest for Statehood for Washington, DC.

I represent nearly 700,000 residents who live in the shadow of our nation's capital. Our residents pay federal taxes—more per person than residents of any state—but we have no vote in the United States House of Representatives or the Senate. District residents have joined the armed services, and have tragically given their lives, yet our 30,000 veterans do not have a voice in Congress, even when deciding whether to send them into harm's way to defend our country.

This year, I submitted our 21st consecutive balanced budget for legislative review. We have funded our pension obligations and hold a record level of financial reserves. Our fiscal house is in order. Yet, Congress still has the power to dictate how we can and cannot spend our LOCALLY raised funds, and unless we receive a temporary exemption we must wait for Congress to pass its spending bills for the entire government before we can spend our own local budget. As fellow Mayors, you can imagine how difficult it is to set a budget for the city without knowing if we will have a budget to spend at the start of our fiscal year on October 1.

Our only solution is statehood and the time for statehood is NOW. Washingtonians are AMERICANS. I feel compelled, as Mayor, to advance this issue, so I'm asking for your support. We have an opportunity to do something historic and remedy one of the greatest ongoing civil and voting rights injustices of modern time, but we cannot do it alone. I hope we can count on your support.

As members of the U.S. Conference of Mayors Criminal and Social Justice Standing Committee, I urge you to vote in favor of our resolution supporting Statehood for Washington, DC.

As early as 1979, The United States Conference of Mayors called for full voting rights for the residents of Washington, DC, recognizing that District residents deserve the same rights and privileges afforded to the residents of your cities and states.

For more information on our efforts please go to statehood.dc.gov.

Should you have questions concerning our push for Statehood, please contact Tomás Talamante of my Office on Federal and Regional Affairs at tomas.talamante@dc.gov or 202-727-0096.

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser", written over a horizontal line.

Muriel Bowser
Mayor, Washington, DC

From: David Adelman
To: ausahobart@gmail.com; b.potter@cedar-rapids.org; balesq@cityofdubuque.org; bkindred@city.ames.ia.us; bob@rescottco.com; bobanncamp@aol.com; bpadmore@sioux-city.org; ctymgr@cityofdubuque.org; d.stalkfleet@cedar-rapids.org; David Adelman; dgross@councilbluffs-ia.gov; fcownie@mac.com; gaer.steve@rrrealty.com; geoff-fruin@iowa-city.org; j.pomeranz@cedar-rapids.org; jamesf@cedar-rapids.org; Lester, Jeffrey D.; Warburton, Joyce M.; justin.shields@cedar-rapids.org; keradig@cableone.net; Reindl, Kandi P.; kradig@homfurniture.com; kristy.henning@wdm-ia.com; larry@llmurphy.com; magodwin@dmgov.org; marian-karr@iowa-city.org; matsongohawks@msn.com; michelle.weidner@waterloo-ia.org; McCroskey, Monica J.; muhl@sioux-city.org; mwalsh@councilbluffs-ia.gov; r.corbett@cedar-rapids.org; rbwade@justice.com; rdbuol@cityofdubuque.org; rgehl@cityofdubuque.org; ron@roncorbett.com; sblevins@sioux-city.org; Sanders, Scott E.; sgwiasda@city.ames.ia.us; sschainer@city.ames.ia.us; teri53@aol.com; tgoodman@cityofdubuque.org; tomwcope@msn.com; Hamm, Amanda M.; Angela; Corri Spiegel; Dan Jordet; Frank J. Chlodo; Cownie, Frank; Gary Grant; Schulte, Jen L.; Matt Hinch; Mayor Frank Klipsch; Mayor Quentin Hart; Mike Collett; Robert Palmer; Simon Andrew; Tom Hadden; Wendy Schultz
Subject: Metro Coalition Agenda and attachments
Date: Wednesday, September 07, 2016 1:02:32 PM
Attachments: 2016 MC Fall Meeting Agenda.docx
Metro Co Presentation- Fall 2016.pptx
HPTC NOIA.RTF
Historic Preservation Rules 261 ch 49 REDLINE.RTF
Enhance Iowa Board and legislation.docx

Metro Co Members-

Attached are several documents for next week's meeting (September 14th from 10-12pm at the Community Choice Convention Center in Des Moines.

- 1) Agenda
- 2) Election Presentation
- 3) Historic Tax Credit Rules
- 4) Enhance Iowa

There will be a few folks dialing in however the room is not equipped with a conference room speaker phone. We will use my cell phone and the Cornerstone Conference line (CGA Conf Line (855-219-7493; code 2240379929).

If there are any additions or edits you would like to see on the agenda please email me as soon as possible.

Thank you and I look forward to seeing most of you next week.

Safe Travels.

David

David Adelman | Cornerstone Government Affairs
Annapolis | Atlanta | Austin | Baton Rouge | Chicago | Des Moines
Houston | Jackson | Richmond | Washington DC

(515) 491-1015 mobile | (515) 418-9871 direct

321 East Walnut Street, Suite 206
Des Moines, IA 50309

on the web @ www.cgagroup.com



Metropolitan 2016 Fall Meeting

Room 321 - Community Choice Credit Union Convention Center- DSM ,IA

September 14, 2016 10:00am-12:00pm

Attendees:

- | | |
|-----------------------------|-------------------------------------|
| 1) Ames | c. Scot Sanders |
| a. Mayor Ann Campbell | 6) Dubuque |
| b. Bob Kindred | a. Teri Goodmann (by phone) |
| 2) Cedar Rapids | 7) Iowa City |
| a. Mayor Ron Corbett | a. Mayor Jim Throgmorton |
| b. Angie Charipar | b. Councilman John Thomas |
| c. Jeff Pomeranz | c. Geoff Fruin |
| 3) Council Bluffs | 8) Sioux City |
| a. Mayor Matt Walsh | a. Mayor Bob Scott |
| b. Wendy Schultz | 9) Waterloo |
| c. Dick Wade | a. Mayor Quentin Hart |
| 4) Davenport | b. Michelle Weidner |
| a. Corri Spiegel (by phone) | 10) West Des Moines |
| 5) Des Moines | a. Tom Hadden |
| a. Mayor Frank Cownie | b. Jamie Letzring |
| b. Jeff Lester | 11) Robert Palmer- League of Cities |

1. Introductions
2. Appointment of Chair/Vice Chair
3. Financial Report
4. Election Overview
 - a. Presentation Attached
5. Interim Study Committee
 - a. Examine the causes and impacts of, and possible remedies for, increased levels of violence in Iowa, including but not limited to developing more accurate and useful measurements of violent crime beyond annual crime statistics; identifying root causes of violence including conducting biographical research of offenders to determine common traits such as substance abuse, mental and physical health issues, educational background, and familial influence; reviewing existing Iowa criminal code provisions, sentencing guidelines, and incarceration, probation, and parole trends to determine

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frequency of use, effectiveness, and whether changes or enhancements are needed; and identifying any other “cause and effect” variables arising through research. The committee may receive input from agencies and entities including, but not limited to, the Department of Public Safety, the Department of Transportation, the Judicial Branch, the Attorney General’s Office, the Criminal and Juvenile Justice Planning Agency, and representatives from law enforcement agencies, educational institutions, business and labor organizations, community and faith organizations, and other interested groups. The committee shall submit recommendations, if deemed appropriate, to the General Assembly by January 1, 2017.

b. Appointed members: Senators Jochum, Hart & Kinney

6. Water Quality

- a. Governor’s Proposal
- b. Other

7. Fair Play/Minimum Wage/Pensions/Infrastructure- Transit/Aviation

8. Historic Preservation Tax Credit Program (New Rules)

- a. Attached

9. Enhance Iowa (Policy Enrolled)

- a. Funding for 2017

10. Metro Co Strategic Vision-Long Term Planning Discussion

11. Adjourn (12:00)



SEPTEMBER 14, 2016

CORNERSTONE GOVERNMENT AFFAIRS

Current Political Climate and Election Update



David Adelman



Sara Allen
**starting Oct 1st*



Frank Chiodo

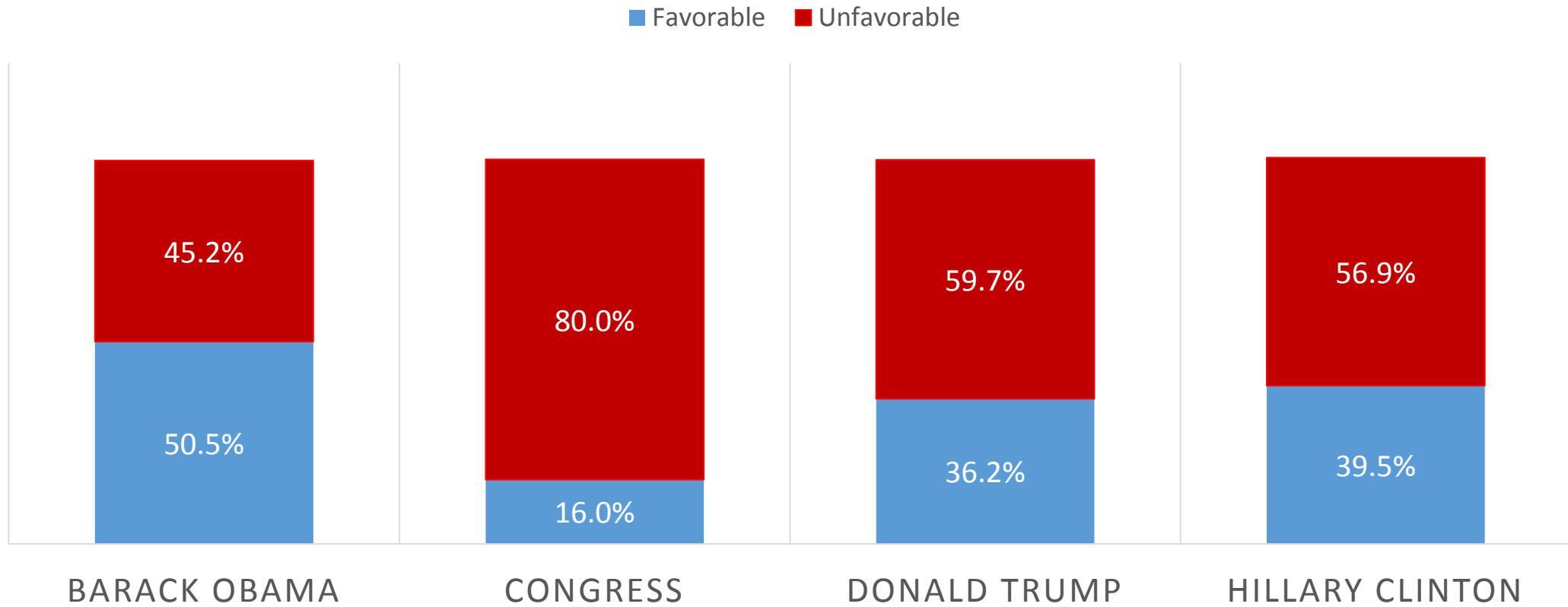


Matt Hinch

Current Political Climate



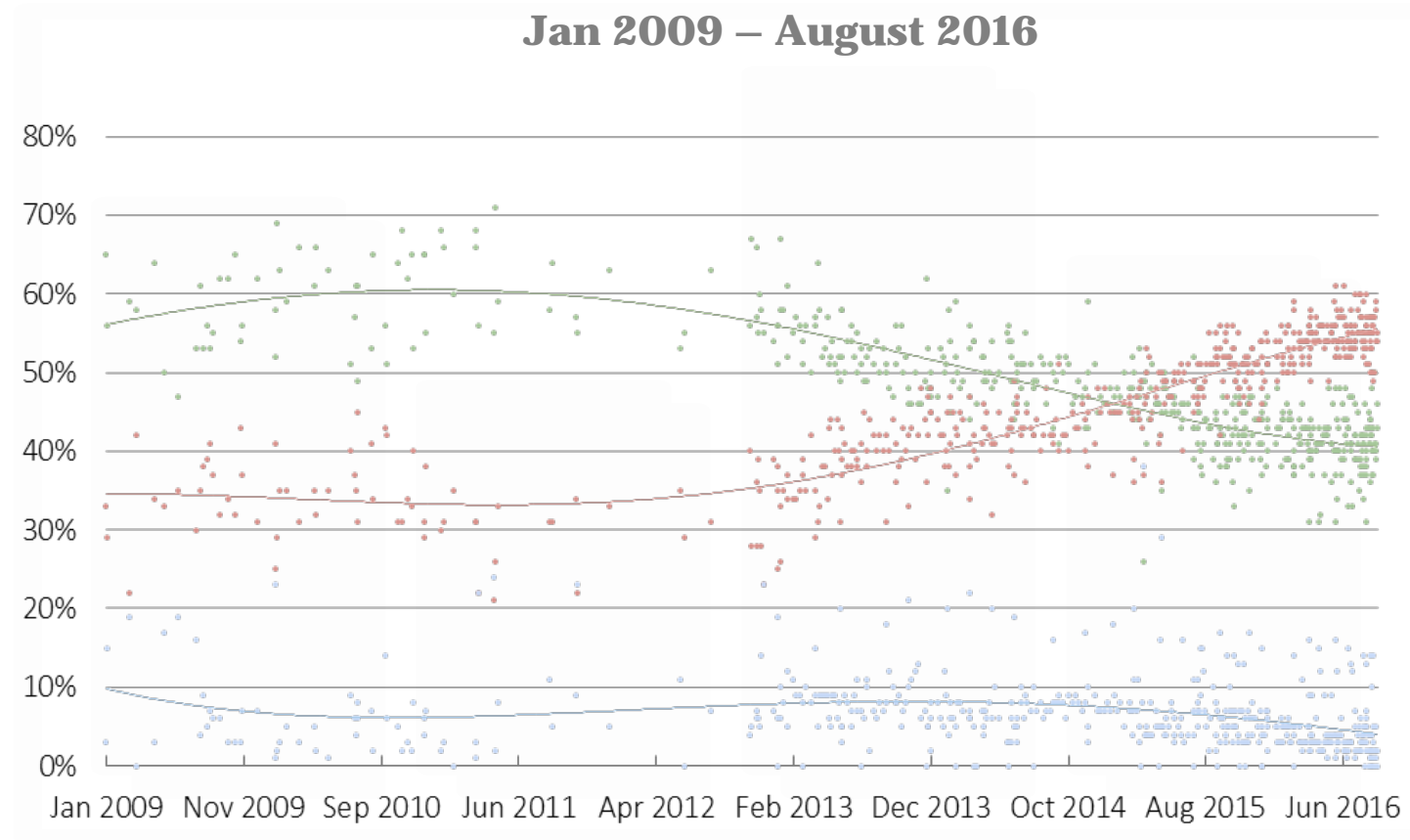
Report Card: Favorability Rating



Sources: Huffington Post and Gallup

Report Card: Favorability Rating

Hillary Clinton's Favorability Has Declined Since 2011



Analysis

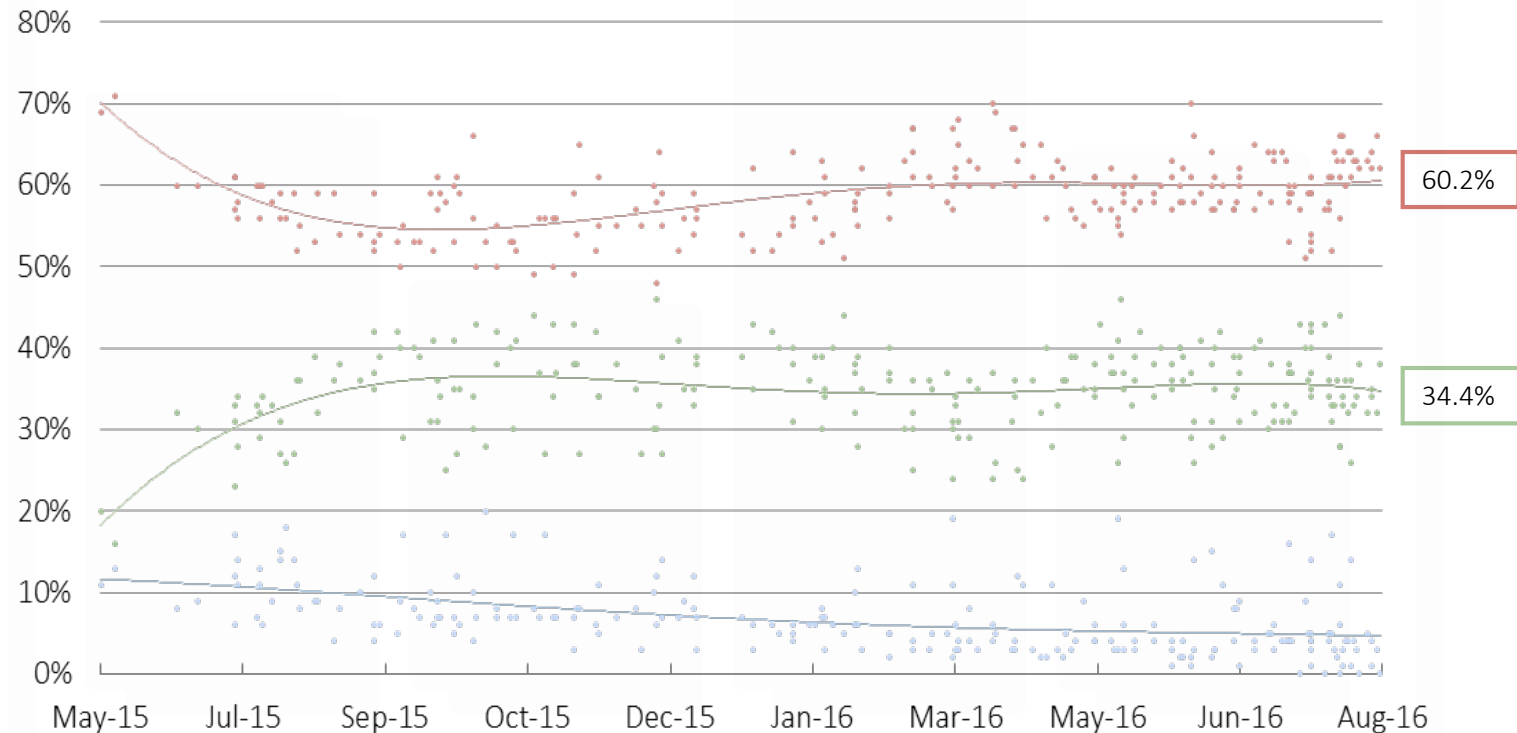
- Hillary Clinton's favorability has steadily declined over the past few years
- She has been more unfavorated than favored since mid-2015

Report Card: Favorability Rating

Donald Trump's Favorability has Decreased in Recent Months

May 2015 – August 2016

Favorable Undecided Unfavorable



Analysis

- Donald Trump has consistently been more unfavorably viewed than favorably since May 2015
- Over the past few months, his favorability rating has decreased and his unfavorability rating has increased

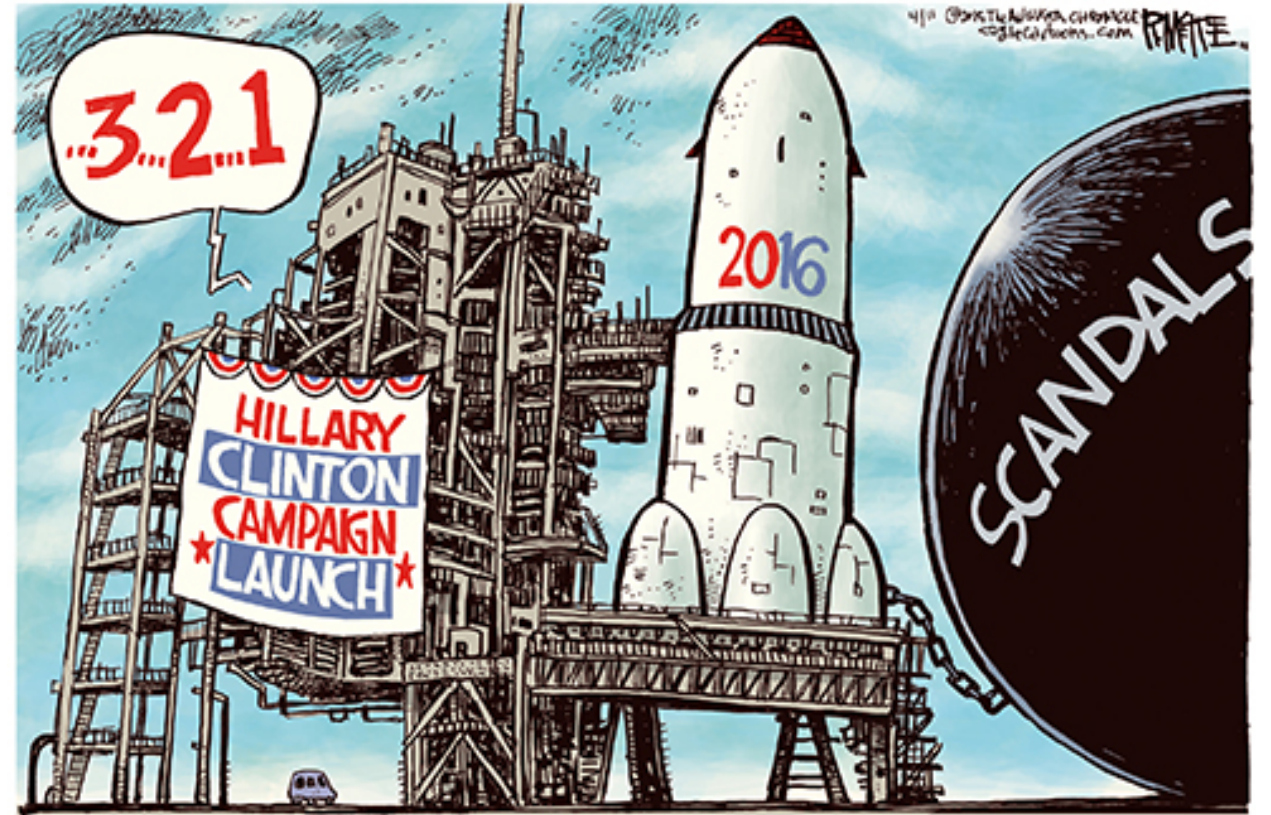
Mood Across the Country

**WRONG
WAY**

- **Only 26%** of likely voters think the U.S. is headed in the right direction
- Confidence in America's safety is **down 33%** since last November (lowest since 2006)
- Voters list the economy, health care and government spending as top issues
- **72%** say the economy is very important in deciding how they will vote



Presidential Election

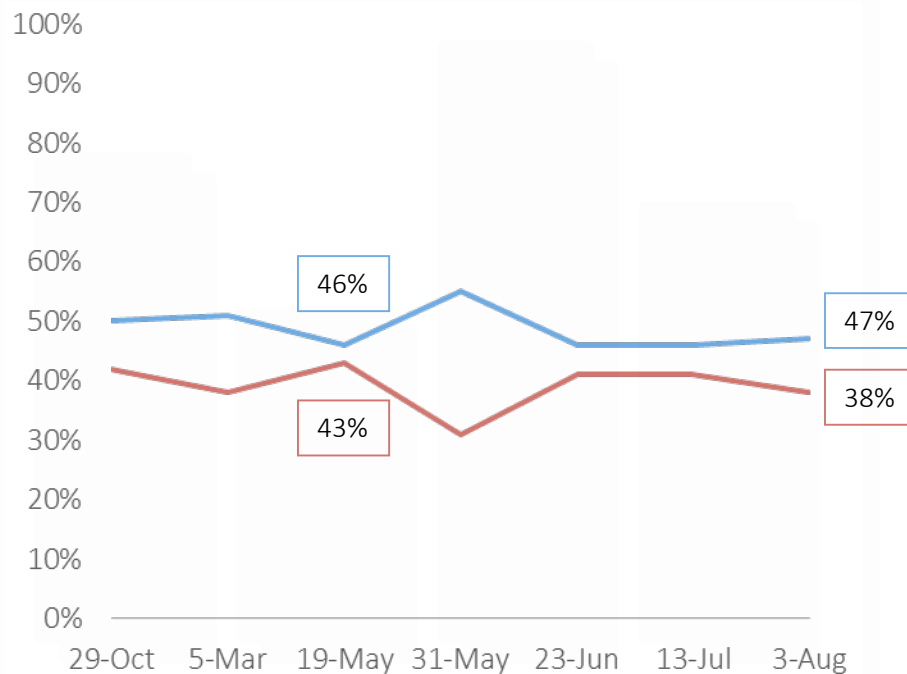


Trump Must Capture Undecided Republicans and Increase Non-College White Turn-Out to Win General

Trump vs. Clinton Polling Overview

NBC/Wall Street Journal, October – August

■ Clinton ■ Trump



- Clinton averages an 8 point advantage in the 7 NBC/ Wall Street Journal polls this year
- The race was closest in May when Clinton led 46 to 43 percent
- In order to recover his losses, Trump has to solidify his base and shift the focus of his campaign away from himself

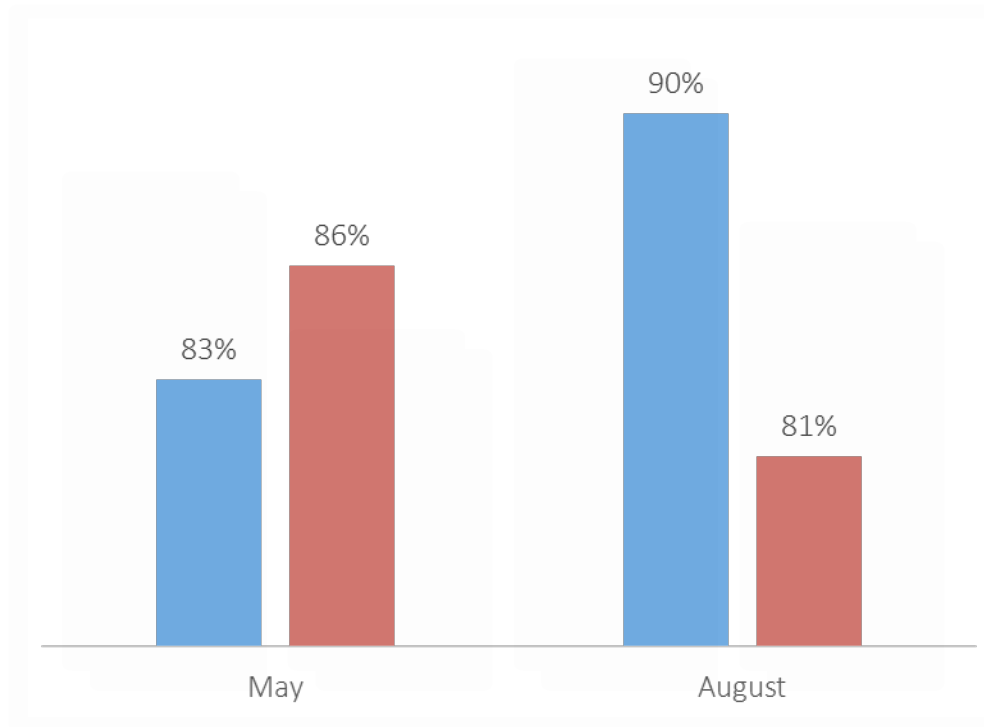
Sources: Amy Walter, "Can Trump Catch Up?" The Cook Political Report, August 11, 2016.

Clinton Solidifies Her Base, While Trump Drops 5 Percentage Points Among Republicans

Trump vs. Clinton Party Polling

NBC/Wall Street Journal, May – August

■ Democrats Voting for Clinton ■ Republicans Voting for Trump



- Trump dropped 5 percentage points among Republicans over the summer
- Clinton gained 7 percentage points among Democrats
- After the convention boosts leveled out, Clinton appears to have increased party unity, whereas Trump struggles to maintain his May levels of support

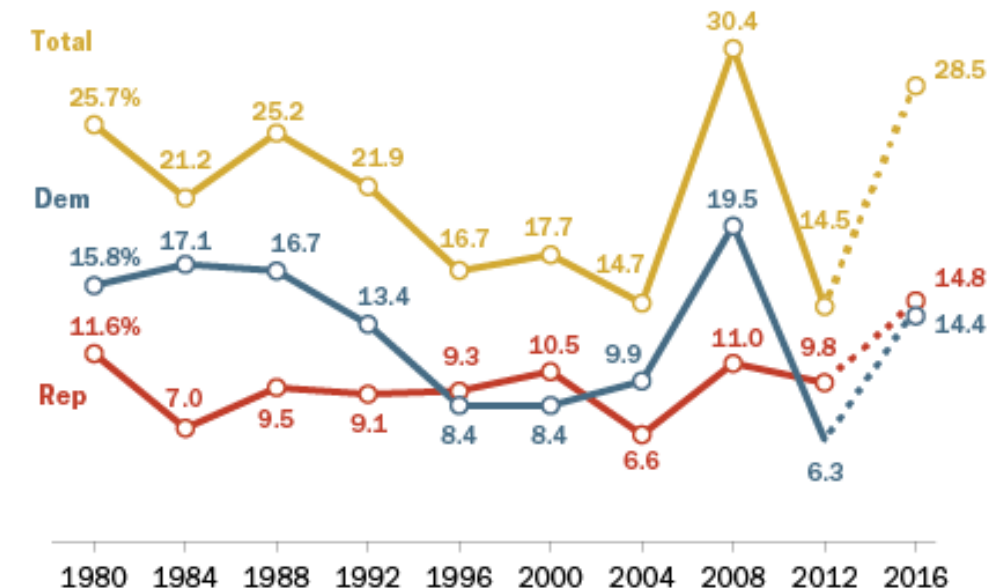
Sources: Amy Walter, "Can Trump Catch Up?" *The Cook Political Report*, August 11, 2016.

2016 Primaries Voter Turnout Trends

- **Republican** turnout was **up 62%** this year
- **Democratic** turnout was **down 21%** this year
- 57.6 million people - **28.5% of eligible Americans** - voted in primaries
- GOP had its highest primary turnout since at least 1980
- Difference between primaries and general election
 - Indicator of primaries' competitiveness, not necessarily general election outcome

After a long decline, primary turnout rebounds

Votes cast in Democratic and Republican primaries as a share of eligible voters in primary states



Note: Total turnout does not equal the sum of turnout in Democratic and Republican primaries because some states only held primaries for one or the other party. Data from U.S. territories not included. 2016 figures exclude D.C. Democratic primary. Source: Pew Research Center: <http://pewrsr.ch/2a1oDuC>; The Gateway Pundit ; Fivethirtyeight.com

Tale of Two Campaigns – Different Styles & Strategies



A Tale of Two Campaigns

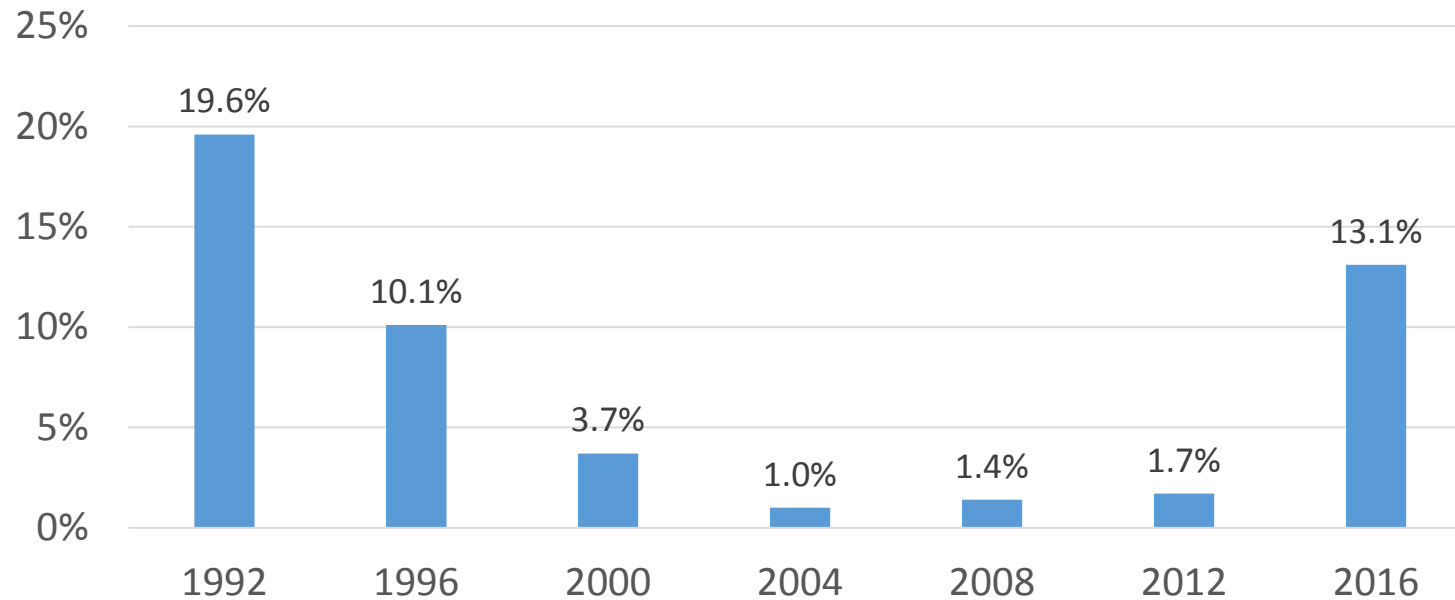


66	Paid Campaign Staff	684
“Overrated”	Data Analytics	Ubiquitous
\$3.3M raised	Fundraising <small>(in 2016 cycle reported via FEC thru 6/27/16)</small>	\$84.8M raised
Gut-Trusted	Polling	Extensive
Mass Rallies, Off-the-Cuff	Events & Speeches	Intimate Discussions, Focus-Grouped
78	“Sunday Show” Appearances	26
0 spots	TV Advertising 6/1-6/29 <small>(campaigns only)</small>	14,403 spots
32,400	Tweets	6,234

Source: FEC staff;
OpenSecrets; Kantar;
USA Today; Twitter

Third Parties Could Have a Large Impact:

Third Party Polling Averages by Year



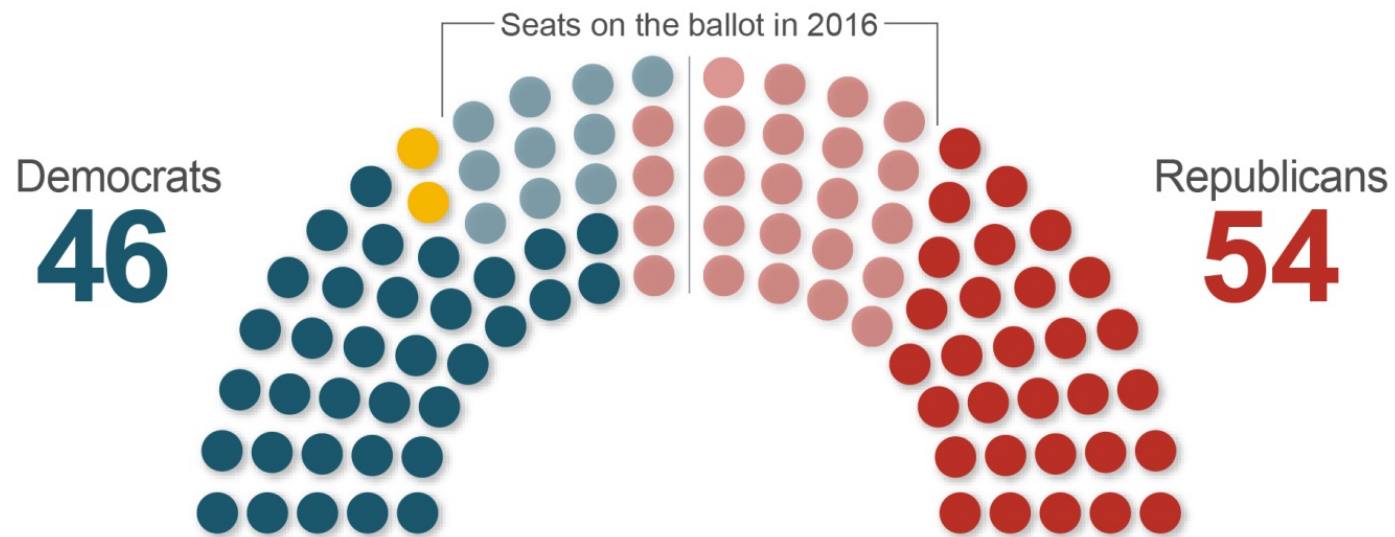
Third Parties
take more from
Clinton than
Trump

	Avg. Head-to-Head	Avg. w 3 rd Parties	Impact of 3 rd Parties
CLINTON	46.4%	41.0%	-5.4%
TRUMP	40.4%	36.9%	-3.6%

Senate Overview:

Democrats Need a Net of Five Seats to Win Control of the Senate

Senate Balance of Power: 114th Congress



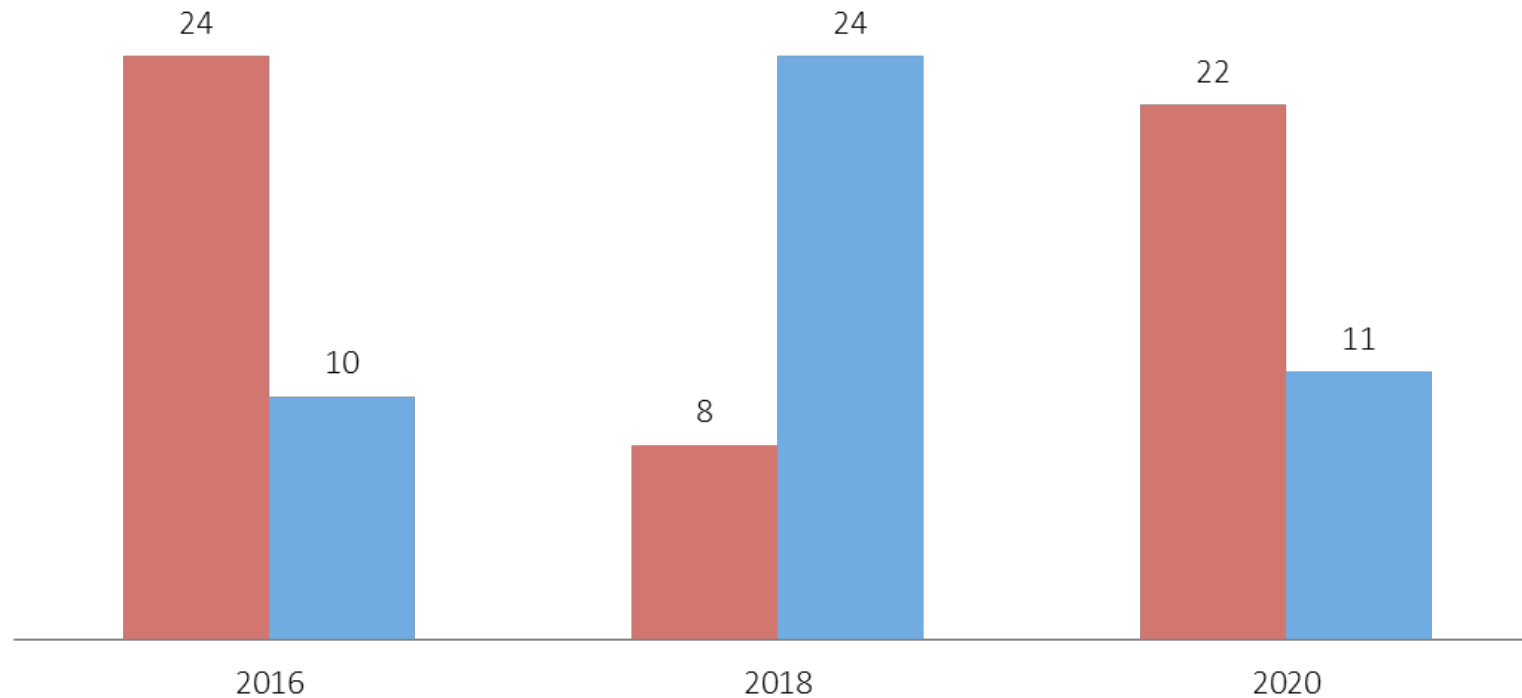
Note: Independents, shown in yellow, caucus with the Democrats and are included in the Democratic tally.

Source: Bloomberg Government | Graphic: Catherine Traywick

Bloomberg GOVERNMENT

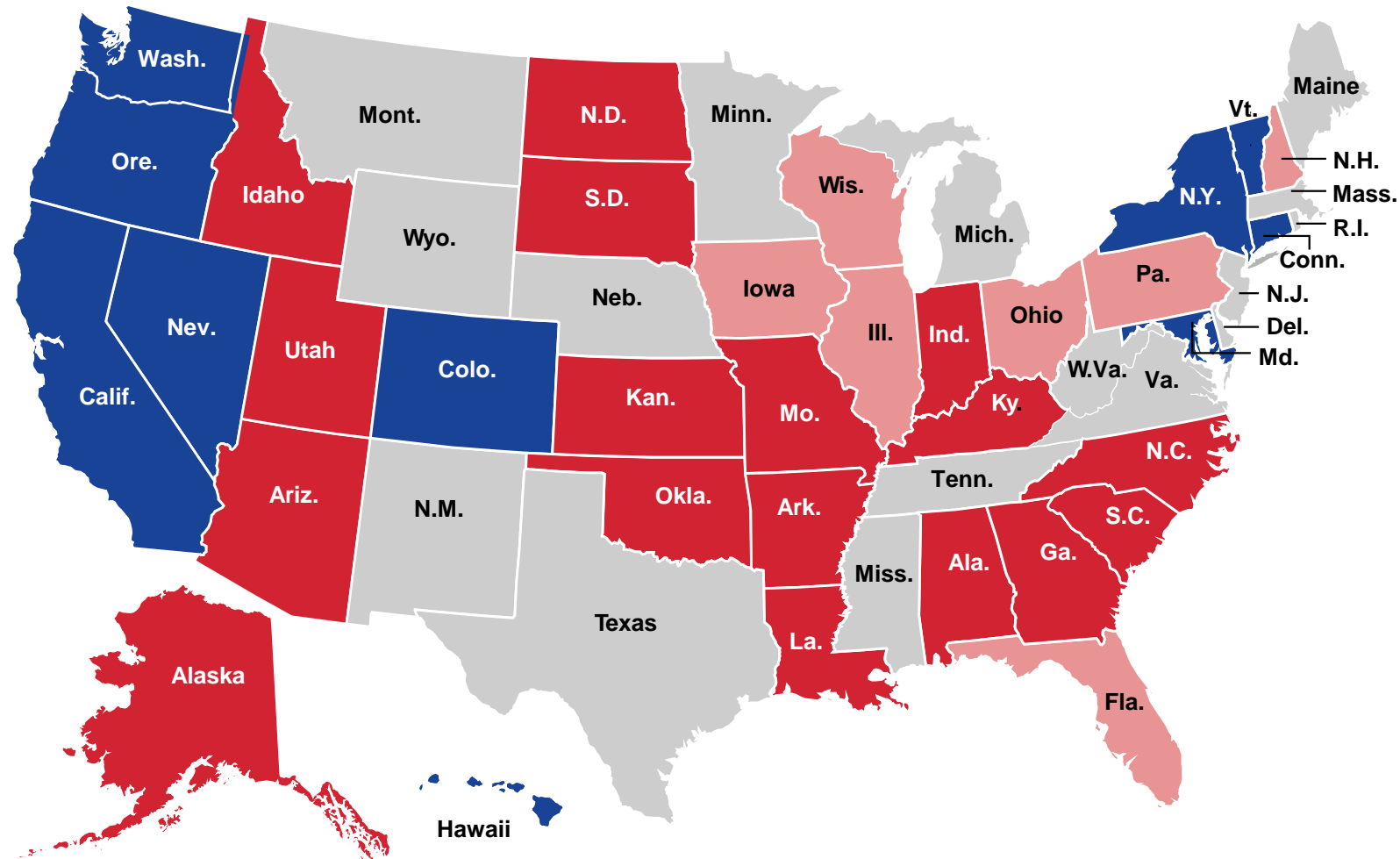
Democrats, Republicans Will Take Turns Playing Defense in Elections Ahead

Senate Seats in Play, by Election Year



States with Senate Races in 2016

- Democratic-held seat
- Republican-held seat – state won by Romney in 2012
- Republican-held seat – state won by Obama in 2012



States to Watch – Can the Democrats Win the Senate?

Florida – Rubio reversed his decision to retire

- State went to Obama by less than one percent in 2012



Illinois – Incumbent Republican Senator Mark Kirk is one of the DNC's top targets

- Challenger Rep. Tammy Duckworth is a Iraq War Veteran

Indiana – Incumbent Republican Senator Dan Coats is retiring

- Rep. Todd Young (R) v. ex-Senator Evan Bayh (D)



Nevada – Who will replace Sen. Minority Leader Harry Reid?

- Democrat Catherine Cortez Masto vs. Republican Congressman Joe Heck
- Seen as an opportunity for Republicans to pick up a Democratic seat



New Hampshire – Republican Senator Kelly Ayotte vs. Democratic Governor Maggie Hassan

- Obama won NH in 2012 but state voting patterns mirror the national popular vote

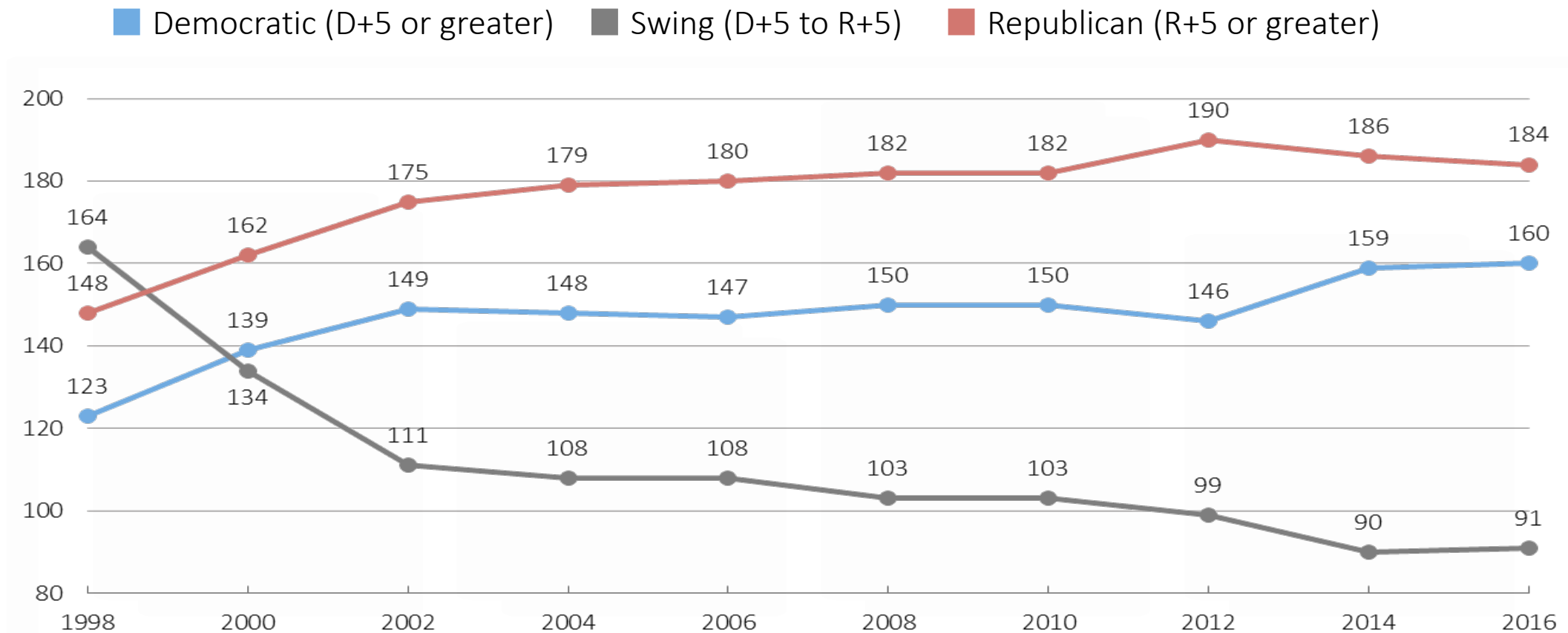
Ohio – Sen. Rob Portman challenged by former Governor. Ted Strickland



Pennsylvania, Wisconsin, Arizona, & Colorado worth watching as well

In House, Fewer “Swing” Seats, More Polarization

House Makeup by Cook Partisan Vote Index



Looking to November

- The Republican majority is **247-188** (assuming the two vacant Republican seats remain with the party).
- Effect of Presidential race on down ballot outcomes
- Highly unlikely House will change hands, modest Democratic gains forecasted
- Speaker Ryan will continue to drive the Republican policy discussion
- If elected, Clinton could become the **first Democratic president** in the party's nearly two century-long history to never control the House of Representatives while she's in office.

Local Congressional Races

- Iowa-1 - Congressman Rod Blum(R) versus Monica Vernon (D)
- Iowa-2 – Congressman David Loebsack (D) vs. Dr. Chris Peters (R)
- Iowa-3 – Congressman David Young (R) vs. Jim Mower (D)
- Iowa-4 – Congressman Steve King (R) vs. Kim Weaver (D)

Iowa State Legislature- Senate

- For the Democrats 2016 will be focused on protecting their Majority (26-24*)
 - * Senator Dave Johnson
- Rs are challenging 5 or 6 Democratic incumbents (Brase, Schoenjahn, Wilhelm, Mathis, Danielson, Gronstal, Sodders)
- Ds are challenging 2 of the R incumbents: Sens. Breitbach, & Zumbach.
- There is 1 open seat: District 16, an unchallenged safe D seat (Nate Boulton)

Iowa State Legislature- House

Current Balance: 43-57 (Republican Control)

All 100 seats up in 2016

5 Republican retirements in seats President Obama won in 2012; 9 Republican retirements total

Contested Seats

- Retired Rep. Brian Moore (R)
- Retired Rep. Quentin Stanerson (R)
- Retired Rep. Ron Jorgensen (R)

- Retired Rep Nancy Dunkel (D)

- Rep. Zach Nunn (R) vs. Joe Riding (D)

- Rep. Scott Orth (D) vs. Rebel Snodgrass (R)

- Maj. Ldr. Chris Hagenow (R) vs. Jen Konfrst (D)

- Rep. Patti Ruff (D) vs. Kristie Hager (R)

Iowa State Legislature- 2017 Session

What to Expect

Status Quo (Senate-Democratic; House- Republican)

- Mental Health/Psych Beds/BH Funding
- Water Quality
- Another Tight Budget Year

Republican Controlled Legislature

- Mental Health/Psych Beds/BH Funding
- Tax Reform- Corporate/Personal Income Tax Reduction
- Water Quality
- Another Tight Budget Year

Questions?



ECONOMIC DEVELOPMENT AUTHORITY [261]

Notice of Intended Action

HISTORIC PRESERVATION AND CULTURAL AND ENTERTAINMENT DISTRICT TAX CREDITS

FOR PROJECTS REGISTERED ON OR AFTER AUGUST 15, 2016

Pursuant to the authority of Iowa Code section 15.106A and Iowa Code section 404A.6, the Iowa Economic Development Authority gives Notice of Intended Action to adopt a new chapter, chapter 49, “Historic Preservation and Cultural and Entertainment District Tax Credits,” Iowa Administrative Code.

The proposed rules govern the administration of the Historic Preservation and Cultural and Entertainment District Tax Credit program. The program was previously administered by the Department of Cultural Affairs (DCA) and the Department of Revenue. House File 2443, passed by the 2016 General Assembly, brought the program under IEDA’s administration in consultation with DCA effective August 15, 2016. IEDA will administer the tax credit portion of the program, while DCA will review the historic components of the project applications. The proposed new rules are based on DCA’s existing rules, but with several changes, including: 1) changes required by House File 2443; 2) giving IEDA the ability to limit developer fees that qualify for the credit; and 3) expansion of rules governing the CPA examination required for projects with final qualified rehabilitation expenditures over \$100,000.

The Economic Development Authority Board approved these rules at a Board meeting on August 19, 2016. Interested persons may submit comments on or before October 4, 2016. Comments may be submitted to: Jennifer Klein, Economic

Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone number (515)-725-3124; email: Jennifer.Klein@iowa.gov.

This rulemaking does not have any fiscal impact to the state of Iowa.

After analysis and review of this rulemaking, no impact on jobs has been found.

This rulemaking is intended to implement Iowa Code chapter 404A.

The following rules are proposed.

Item 1. Adopt the following **new** 261—Chapter 49:

261—49.1(303,404A) Purpose. A historic preservation and cultural and entertainment district tax credit (hereinafter referred to as “historic tax credit”) may be applied against the income tax imposed under Iowa Code chapter 422, division II, III, or V, or Iowa Code chapter 432 for qualified rehabilitation projects that have entered into and complied with an agreement with the economic development authority (hereinafter referred to as “the authority”) and complied with all applicable terms, laws, and rules. The program is administered by the authority with the assistance of the department of cultural affairs. The general assembly has mandated that the authority, department of cultural affairs and the department of revenue adopt rules to jointly administer Iowa Code chapter 404A. In general, the department of cultural affairs evaluates whether projects comply with the prescribed historic standards for rehabilitation. Once the historic components have been approved, the authority enters into an agreement with the project owner and issues a tax credit upon completion of all program requirements and verification of qualified rehabilitation expenditures. The department of revenue is responsible for administering tax credit transfers and processing tax credit claims. This chapter sets forth the

administration of the program by the authority. The administrative rules for the department of cultural affairs' administration of the program can be found in rules 223—48.22 through 223—48.37. The administrative rules for the department of revenue's administration of the program can be found in rules 701—42.19(404A,422), 701—42.54(404A,422), 701—52.18(404A,422), and 701—58.10(404A,422).

261—49.2(404A) Program transition. The 2016 general assembly made several changes to the historic tax credit program, including transferring the primary responsibility of the program's administration to the authority. For projects registered prior to August 15, 2016, the program is administered by the department of cultural affairs and the department of revenue pursuant to the statutes and rules that apply to projects registered prior to August 15, 2016. As of August 15, 2016, the program is administered by the economic development authority in consultation with the department of cultural affairs pursuant to Iowa Code chapter 404A. This chapter applies to projects that are registered on or after August 15, 2016.

261—49.3(404A) Definitions. The definitions listed in rules 223—1.2(17A,303) and 223—35.2(303) shall apply to terms as they are used throughout this chapter. In addition, for purposes of this chapter, unless the context otherwise requires:

“*Agreement*” means an agreement between an eligible taxpayer and the authority concerning a qualified rehabilitation project as provided in Iowa Code section 404A.3(3) and rule 261—49.14(404A).

“*Applicant*” means an eligible taxpayer described in rule 261—49.9(404A).

“*Assessed value*” means the value of the eligible property on the most current

property tax assessment at the time that the relevant application or agreement is submitted or the agreement is signed, as applicable.

“Authority” means the economic development authority.

“Barn” means an agricultural building or structure, in whatever shape or design, which was originally used for the storage of farm products or feed or for the housing of farm animals, poultry, or farm equipment.

“Certificate” means a historic preservation and cultural and entertainment district tax credit certificate issued pursuant to Iowa Code section 404A.3(5).

“Commencement date” means the date set forth in the agreement, which date shall not be later than the end of the fiscal year in which the agreement is entered into.

“Commercial property” means property classified as commercial, industrial, railroad, utility, or multiresidential for property tax purposes under rules 701—71.1(405,427A,428,441,499B), 701—76.1(434), and 701—77.1(428,433,437,438).

“Completion date” means the date on which property that is the subject of a qualified rehabilitation project is placed in service, as that term is used in Section 47 of the Internal Revenue Code.

“Department” means the department of cultural affairs.

“Director” means the director of the economic development authority.

“Eligible taxpayer” means the fee simple owner of the property that is the subject of a qualified rehabilitation project, or another person who will qualify for the federal rehabilitation credit allowed under Section 47 of the Internal Revenue Code with respect to the property that is the subject of a qualified rehabilitation project.

“Federal rehabilitation credit” or *“federal credit”* means the tax credit allowed under Section 47 of the Internal Revenue Code.

“Federal standards” means the U.S. Secretary of the Interior’s standards for rehabilitation set forth in 36 CFR Section 67.7.

“Government funding” or *“funding originating from a government”* includes but is not limited to:

1. Any funding the applicant received from a government; or
2. Funding from a third party or a series of third parties where those funds originally came from a government or were derived from a government payment, grant, loan, tax credit or rebate or other government incentive; or
3. Funding from a third party or a series of third parties where those funds are derived from, secured by, or otherwise received in anticipation of a government payment, grant, loan, tax credit or rebate or other government incentive.

“Historically significant” means a property that is at least one of the following:

1. Property listed on the National Register of Historic Places or eligible for such listing.
2. Property designated as contributing to a district listed in the National Register of Historic Places or eligible for such designation.
3. Property or district designated a local landmark by a city or county ordinance.
4. A barn constructed prior to 1937.

“Large project” means a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of more than \$750,000.

“Noncommercial property” means property other than “commercial property” as defined in this rule. “Noncommercial property” includes barns constructed prior to 1937.

“Nonprofit organization” means an organization described in Section 501 of the Internal Revenue Code unless the exemption is denied under Section 501, 502, 503, or 504 of the Internal Revenue Code. “Nonprofit organization” does not include a governmental body, as that term is defined in Iowa Code section 362.2.

“Placed in service” means the same as used in Section 47 of the Internal Revenue Code.

“Program” means the historic preservation and cultural and entertainment district tax credit program set forth in this chapter.

“Property” means the real property that is the subject of a “qualified rehabilitation project” or that is the subject of an application to become a qualified rehabilitation project.

“Qualified rehabilitation expenditures” or *“QREs”* means the same as defined in Section 47 of the Internal Revenue Code and as described in rule 261—49.4.

“Qualified rehabilitation project” or *“project”* means a project for the rehabilitation of property in this state that meets all of the following criteria:

1. The property is historically significant as defined in this rule.
2. The property meets the federal standards as defined in this rule.
3. The project is a substantial rehabilitation as defined in this rule.

“Related entities” means any entity owned or controlled in whole or in part by the applicant; any person or entity that owns or controls in whole or in part the applicant; or

any entity owned or controlled in whole or in part by any current or prospective officer, principal, director, or owner of the applicant.

“Related persons” means any current or prospective officer, principal, director, member, shareholder, partner, or owner of the applicant.

“SHPO” means the state historic preservation office at the department of cultural affairs.

“Small project” means a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of \$750,000 or less.

“Substantial rehabilitation” means qualified rehabilitation costs that meet or exceed the following:

1. In the case of commercial property, costs totaling at least 50 percent of the assessed value of the property, excluding the land, prior to the rehabilitation or at least \$50,000, whichever is less; or

2. In the case of noncommercial property, costs totaling at least \$25,000 or 25 percent of the assessed value, excluding the land, prior to rehabilitation, whichever is less.

“Tax credit” or *“historic tax credit”* means the historic preservation and cultural and entertainment district tax credit established in Iowa Code chapter 404A.

261—49.4(404A) Qualified rehabilitation expenditures.

49.4(1) “Qualified rehabilitation expenditures” or “QREs” means the same as defined

in Section 47 of the Internal Revenue Code that are specified in the agreement.

49.4(2) *Expenditures incurred by nonprofit organizations.* Notwithstanding the foregoing subrule, expenditures incurred by an eligible taxpayer that is a nonprofit organization shall be considered “qualified rehabilitation expenditures” if they are any of the following:

a. Expenditures made for structural components, as that term is defined in Treasury Regulation § 1.48-1(e)(2).

b. Expenditures made for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, and development fees.

49.4(3) *What expenditures qualify.* “Qualified rehabilitation expenditures” may include:

a. Expenditures incurred prior to the date an agreement is entered into under Iowa Code section 404A.3(3). The amount of the historic preservation and cultural and entertainment district tax credit is a maximum of 25 percent of the qualified rehabilitation expenditures verified by the authority following project completion, up to the amount specified in the agreement between the taxpayer and the authority.

b. Reasonable developer fees. The authority may establish limits on developer fees which may be adjusted by the authority. Any adjustment made to the established limit shall take effect 24 months after the adjustment is published on the authority’s website. Developer fees meeting the limits effective at the time the registration application is submitted shall be deemed reasonable by the authority.

49.4(4). *Government financing.* “Qualified rehabilitation expenditures” does not

include those expenditures financed by federal, state, or local government grants or forgivable loans unless otherwise allowed under Section 47 of the Internal Revenue Code. For an eligible taxpayer that is not eligible for the federal rehabilitation credit, expenditures financed with federal, state, or local government grants or forgivable loans are not qualified rehabilitation expenditures.

261—49.5(404A) Historic preservation and cultural and entertainment district tax credit.

49.5(1) *Tax credit.* An eligible taxpayer who has entered into and complied with an agreement under Iowa Code section 404A.3(3) and has complied with the program statutes and rules is eligible to claim a historic preservation and cultural and entertainment district tax credit of 25 percent of the qualified rehabilitation expenditures of a qualified rehabilitation project that are specified in the agreement. Notwithstanding any other provision in Iowa Code chapter 404A, this chapter, or any provision in the agreement to the contrary, the amount of the tax credits shall not exceed 25 percent of the final qualified rehabilitation expenditures verified by the authority pursuant to Iowa Code section 404A.3(5) “c.”

49.5(2) *Who may claim the credit.* The tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432. An individual may claim a tax credit under this section of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. For an individual claiming a tax credit of an estate or trust, the amount

claimed by the individual shall be based upon the pro rata share of the individual's earnings from the estate or trust. For an individual claiming a tax credit of a partnership, limited liability company, or S corporation, the amount claimed by the partner, member, or shareholder, respectively, shall be based upon the amounts designated by the eligible partnership, S corporation, or limited liability company, as applicable.

49.5(3) *Transferability.* Tax credit certificates issued under Iowa Code section 404A.3 may be transferred to any person. For information on transfer of tax credits under this program, see department of revenue rules 701—42.54(404A,422), 701—52.47(404A,422), and 701—58.10(404A,422).

49.5(4) *Refundability and carry forward.* An eligible taxpayer or a transferee may elect to receive either a refundable or a nonrefundable tax credit. For information on refundable and nonrefundable tax credits, including the carry forward of nonrefundable tax credits, see department of revenue rules 701—42.54(404A,422), 701—52.47(404A,422), and 701—58.10(404A,422).

49.5(5) *How to claim the tax credit.* For information on how to claim the tax credit, see department of revenue rules 701—42.54(404A,422), 701—52.47(404A,422), and 701—58.10(404A,422).

261—49.6(404A) Management of annual aggregate tax credit award limit. The authority shall not register, as described in rule 261—49.13(404A), more projects in a given fiscal year for tentative awards than there are tax credits available for that fiscal year under Iowa Code section 404A.4. The authority will determine the projects for which sufficient tax credits are available based on the estimated qualified rehabilitation

expenditures identified in the registration application, plus allowable cost overruns as described in paragraph 49.14(1)“c.”

49.6(1) *Registration scoring.* If applicants’ total tax credit requests from a fiscal year allocation exceed the tax credit allocation for that fiscal year, the authority will prioritize its determinations based on the applicants’ registration scores. All registered projects must meet the minimum score as described in rule 261—49.13(404A). If there are no more projects that meet the minimum score described in rule 261—49.13(404A), the authority may make the remaining tax credits available for small projects or allow the remaining tax credits for the fiscal year to carry forward to the succeeding fiscal year to the extent permitted by Iowa Code section 404A.4.

49.6(2) *Registrations for future tax credit allocations.* Registrations for future tax credit allocations require a new application. When registering projects for a particular fiscal year, the authority shall not award, reserve, or register tax credits from future fiscal years’ tax credit allocations. An applicant whose project is not registered due to an insufficient score or noncompliance with the application or the program statute or rules may submit future applications for future fiscal year tax credit allocations.

49.6(3) *Reallocation or rollover of available tax credit awards.* Tax credits may be reallocated or rolled over into future fiscal years to the extent permitted by Iowa Code section 404A.4.

261—49.7(404A) Application and agreement process, generally.

49.7(1) All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the authority.

The current forms and instructions may be obtained by contacting the authority or by visiting the authority's website:

Iowa Economic Development Authority

Community Development Division

200 East Grand Avenue, Des Moines, Iowa 50309

(515)725-3000

<http://iowaeconomicdevelopment.com/>

Application forms and instructions may also be obtained at taxcredit.iowa.gov.

49.7(2) An application shall not be considered submitted for review until the application is completed and all required supporting documentation and information are provided.

49.7(3) The application and agreement process consists of six steps:

a. The applicant submits a Part 1 application to the authority, which is used to evaluate the property's integrity and significance. The authority will consult with SHPO when reviewing the Part 1 application.

b. Unless the Part 1 application is denied by the authority, the applicant participates in a preapplication meeting with SHPO and the authority to discuss what to expect for the remainder of the application process.

c. If the Part 1 application is approved and the preapplication meeting is completed, the applicant submits a Part 2 application to the authority, which is used to evaluate the proposed rehabilitation work. The authority will consult with SHPO when reviewing the Part 2 application.

d. If the Part 2 application is approved, the applicant submits a registration application to the authority, which is used to score the applicant's rehabilitation plan and financial readiness. If the project is awarded a sufficient registration score, satisfies other requirements of the application and program, and sufficient tax credits are available, the authority may register the project.

e. If the project is registered, the applicant may enter into an agreement with the authority that establishes the maximum amount of the tax credit award and the terms and conditions that must be met to receive the tax credits. An applicant must enter into and comply with an agreement in order to participate in the program and claim any tax credits.

f. Once the project is completed and the property is placed in service, the applicant submits a Part 3 application to the authority, which is used to evaluate whether the completed work meets the federal standards and the other requirements of the agreement, laws, and regulations of the program. The authority will consult with SHPO when reviewing the Part 3 application.

A more detailed description of each step is provided in rules 261—49.10(404A) through 261—49.15(404A).

261—49.8(404A) Small projects. Projects with anticipated final qualified rehabilitation expenditures of more than \$750,000 will be evaluated as large projects. Projects with \$750,000 or less in anticipated final rehabilitation expenditures will be evaluated as small projects. If an applicant anticipates that the final qualified rehabilitation expenditures will exceed \$750,000, the applicant may only submit its application as a large project. The

authority will not permit a small project applicant to submit additional or amended applications that would cause the final qualified expenditures to exceed \$750,000.

49.8(1) *Small project fund.* The authority shall allocate at least 5 percent of its annual fiscal year tax credit award limit to small projects.

49.8(2) *Aggregate award limit.* For applicants that receive credits from the small project allocation, the cumulative total award for multiple applications for a single property shall not exceed \$750,000 in qualified rehabilitation expenditures plus any allowable cost overruns as described in paragraph 49.14(1)“c,” regardless of the final qualified rehabilitation expenditures. The authority will not accept an application by the same owner for a property for which credits were previously received through the small project fund if the application causes the cumulative total to exceed \$750,000, plus any allowable cost overruns as described in paragraph 49.14(1)“c.”

49.8(3) *Application and agreement process.* The Part 1, Part 2, and Part 3 application process and the agreement requirements are the same for small projects as for large projects. The registration process for small projects differs from that for large projects. See subrule 49.13(8) for more information on the registration process for small projects.

261—49.9(404A) Who may apply for the tax credit. Only an eligible taxpayer may apply for the tax credit. To be an eligible taxpayer, the applicant must be either (1) the fee simple owner or (2) a person that will ultimately qualify for the federal rehabilitation credit with respect to the qualified rehabilitation project. A nonprofit organization as described in rule 261—49.3(404A) may apply for the tax credit if the nonprofit organization is the fee simple owner of the property.

49.9(1) *Applicants that are fee simple owners.* If the applicant qualifies as an eligible taxpayer on the basis that the applicant is the fee simple owner of the property, the applicant will be expected to provide proof of title as described in subrule 49.10(2).

49.9(2) *Applicants that will qualify for the federal credit.* If the applicant qualifies as an eligible taxpayer on the basis that the applicant will qualify for the federal rehabilitation credit with regard to the property, the applicant will be asked to provide increasingly substantial evidence as described in rule 261—49.11(404A) that the applicant will qualify for the federal credit, culminating with proof of actual fee simple ownership or a long-term lease that meets the requirements of the federal rehabilitation credit before the agreement is entered into with the authority. Applicants that are eligible to apply under this subrule must obtain from the fee simple owner of the property a written statement which indicates that the owner is aware of the application and has no objection and include the statement with the application.

49.9(3) *Who may not apply.* Government bodies as defined in Iowa Code section 362.2 may not apply. Additionally, an applicant may not initiate the application process to apply for tax credits by submitting a Part 1 application on a project if all of the work has been completed and the qualified rehabilitation project has already been placed in service.

261—49.10(404A) Part 1 application—evaluation of significance. The Part 1 application is used to determine whether the property is eligible to be a qualified rehabilitation project.

49.10(1) *Types of property that are eligible.* The property must meet the federal

standards for historical significance.

49.10(2) *Proof of status as eligible taxpayer.* The Part 1 application may be submitted to the authority by an eligible taxpayer as described in rule 261—49.9(404A).

a. To prove the applicant is the fee simple owner, the applicant will be expected to provide title documentation. If the title is held in the name of an entity, the application must be accompanied by documentation which indicates that the signatory is the authorized representative of the entity.

b. If the applicant is not the fee simple owner but plans to apply for the federal rehabilitation credit, the applicant must provide a copy of the approved federal Part 1 application, unless the property is individually listed on the National Register of Historic Places. The applicant must also certify that the applicant plans to apply and expects to qualify for the federal credit, and the applicant must provide proof of permission from the fee simple owner as described in subrule 49.9(2).

49.10(3) *Submission period.* Part 1 applications may be submitted year-round.

49.10(4) *Required information.* Applicants must provide the authority a site plan, photographs of the property, a copy of the county assessor's statement for the property, and such other information as the authority may require.

49.10(5) *Review process.* the authority, in consultation with SHPO, will evaluate the appearance and condition of the building and verify the information provided by the applicant. The authority will notify the applicant if the Part 1 application is incomplete. Generally, the authority will review fully completed Part 1 applications within 90 calendar days of receipt. The 90-day review period will be adhered to as closely as

possible; however, it is not mandatory. If the application is incomplete when submitted or if for any other reason the authority must request additional information, the 90-day review period will restart when the requested information is received by the authority. The application may be rejected if any requested information is not provided.

49.10(6) *Response from the authority.* Upon completion of the review, authority shall issue a determination regarding whether the property meets the requirements to be considered historically significant.

49.10(7) *Period of validity.* A determination that the property meets the requirements to be considered historically significant shall be valid for five years from the issuance of the determination provided that the property is maintained in a manner consistent with the federal standards and that the fee simple owner of the property remains the same during such period. Changes to the property that are not approved by the authority shall automatically invalidate the determination of historical significance, and reestablishment of the historical significance of the property as well as submittal of a new Part 1 application for a determination that the property is eligible shall be required.

49.10(8) *Amendments.* An applicant shall amend an approved Part 1 application if the property changes ownership or if the applicant's name or address changes prior to submission of a Part 2 application.

261—49.11(404A) *Preapplication meeting.* The purpose of the preapplication meeting is to provide feedback to the applicant and other interested parties that will enable the applicant to better plan and prepare for submission of the Part 2 and registration applications.

49.11(1) *Meeting requests.* Once the completed Part 1 application is submitted, the applicant may request a preapplication meeting by using the preapplication form, which may be obtained by contacting the authority or by visiting the authority's website.

49.11(2) *Timing of the preapplication meeting.* The meeting must take place no fewer than 30 days after the submission of the Part 1 application and prior to submission of the Part 2 application. Meetings may be held by teleconference at the authority's discretion.

49.11(3) *Required information.* The applicant must bring at least the following items to the meeting: preliminary drawings, photographs of the exterior (all elevations) and interior, a preliminary list of character-defining features and treatments or a draft Part 2 application, and a list of questions for which specific guidance is needed. The authority may request additional information. If the preapplication meeting will be held by telephone, the required documents must be submitted electronically at least one week prior to the meeting date.

261—49.12(404A) Part 2 application—description of rehabilitation. The purpose of the Part 2 application is to determine whether the proposed rehabilitation work meets the federal standards. The applicant must describe the rehabilitation work to be undertaken on the property. The review of the Part 2 application is a preliminary determination only and is not binding upon the authority. A formal certification of rehabilitation shall be issued only after the rehabilitation work is completed.

49.12(1) *Proof of status as eligible taxpayer.* The Part 2 application must be submitted by an eligible taxpayer as described in rule 261—49.9(404A).

a. An applicant that is the fee simple owner does not need to provide any additional

information regarding ownership unless there has been a change in ownership since the Part 1 application was approved.

b. If the applicant is not the fee simple owner but plans to apply for the federal rehabilitation credit, the applicant must provide a copy of the signature page of the approved federal Part 2 application signed by the National Park Service. The applicant must also certify that the applicant plans to apply and expects to qualify for the federal credit and must provide proof of permission from the fee simple owner as described in subrule 49.9(2).

49.12(2) *Submission period.* Part 2 applications may be submitted at any time after the project has received an approved Part 1 and the applicant has participated in the preapplication meeting.

49.12(3) *Required information.*

a. The applicant must provide any information requested by the authority, including but not limited to:

(1) A detailed description of the rehabilitation;

(2) An estimate of the total costs related to the rehabilitation and other work to be completed on the property, regardless of whether the costs will ultimately be qualified rehabilitation costs;

(3) An estimate of the qualified rehabilitation expenditures; and

(4) Photographs.

b. The applicant must also identify whether the applicant plans to submit a registration application as a small project or a large project. For more information on the

differences in the registration application process for large and small projects, see rule 261—49.7(404A).

49.12(4) *Review process.* The authority, in consultation with SHPO, will evaluate the proposed work to determine whether the proposed project, including any new construction, is consistent with the federal standards, the historic character of the property and, where applicable, the registered or potential district in which the property is located. The authority will notify the applicant if the Part 2 application is incomplete. Generally, the authority will review fully completed Part 2 applications within 60 calendar days of receipt. The 60-day review period will be adhered to as closely as possible; however, it is not mandatory. If the application is incomplete when submitted or if for any other reason the authority must request additional information, the 60-day review period will restart when the requested information is received by the authority. The application may be rejected if any requested information is not provided.

49.12(5) *Response from the authority.* The review of the complete Part 2 application shall result in one of three responses:

a. The project is eligible to submit a registration application because the proposed rehabilitation described in the application is consistent with the historic character of the property or the district in which the property is located and the project, as proposed, appears to meet the federal standards;

b. The project is eligible to submit a registration application because the proposed rehabilitation described in the application will likely meet the federal standards if the stipulated conditions are met; or

c. The rehabilitation described in Part 2 of the application is not consistent with the historic character of the property or the district in which the property is located and the project does not meet the federal standards. The project is ineligible for registration. The project may amend its Part 2 application or submit a new Part 2 application for the property.

49.12(6) Amendments. Deviation from the original rehabilitation proposal could result in the denial of final project approval and revocation of the tax credit award. An applicant shall amend an approved Part 2 application to notify the authority of, and to request review of, modifications to or deviations from the original rehabilitation proposal. Applicants that undertake any work not in the original approved Part 2 application without approval of the authority do so at their own risk. Amendments to the Part 2 application shall not result in the awarding of additional tax credits for the project and may result in a reduction in the tax credit award specified in the agreement if the authority determines that the work is not consistent with the federal standards or does not otherwise comply with the requirements of the agreement. Amendments to the Part 2 application will not be accepted after the authority has approved the Part 3 application pursuant to rule 261—49.15(404A). Amendments must be submitted on forms approved by the authority and may be obtained by contacting the authority or by visiting the authority's website.

261—49.13(404A) Registration application. If the authority has approved Part 1 and Part 2 applications for a project, the applicant may submit a historic tax credit registration application to the authority during the applicable registration period. The registration

application is used to determine whether the project is ready to proceed both financially and logistically. The registration application is also used to confirm whether the proposed work will meet the substantial rehabilitation test and whether the project is a small project or a large project. The registration application is also used to obtain background information, including information that may disqualify an applicant from participating in the program, as well as other information about the applicant, related persons, and related entities. Though the application process is largely the same for small projects as it is for large projects, there are some differences. For details on those differences, see rule 261—49.8(404A).

49.13(1) *Proof of status as eligible taxpayer.* An eligible taxpayer as defined in rule 261—49.3(404A) may submit a registration application.

a. An applicant that is the fee simple owner must notify the authority of any changes in ownership status since the Part 2 application was filed.

b. If the applicant is not the fee simple owner but plans to apply for the federal rehabilitation credit, the applicant's application will be scored based on the steps taken toward ownership as described in subrule 49.13(6). The applicant must certify that the applicant understands that the applicant will not qualify for any state historic tax credit if the applicant is not the fee simple owner or not otherwise an eligible taxpayer. The applicant must also provide proof of permission from the fee simple owner as described in subrule 49.9(2).

49.13(2) *Submission period.* In general, applications for registration will only be accepted during the established application period, or periods, as identified by authority

its website. However, applications for small project registration will be accepted year-round.

49.13(3) *Required information.* The registration application must include the following information as well as any additional information the authority may request: total project cost, an estimated schedule of qualified rehabilitation expenditures and a schedule of all funding sources received or anticipated to be received that will be used to fund the project, including those funding sources used or that will be used to finance or reimburse both qualified rehabilitation expenditures and those expenditures not being claimed as qualified rehabilitation expenditures, along with supporting documentation. The schedule must identify all government funding as defined in rule 261—49.3(404A), including any funding that originated or will originate from any government, whether federal, state, or local.

49.13(4) *Certification and release of information.* The applicant must identify and list all related persons and related entities, as those terms are defined in rule 261—49.3(404A). The applicant must release information requested by the authority regarding the applicant, related persons, and related entities. The applicant must also certify that all representations, warranties, documents, or statements made or furnished in connection with the registration application are true and accurate. The certification and release of information are intended to identify information that will disqualify an applicant from participating in the program or that may have an adverse impact on the project. The certification and release of information are also intended to provide the authority with information regarding the economic, ownership, and management realities related to the

project by providing information about the actual persons and businesses affiliated with the applicant, the actual persons and businesses that will derive financial benefits from the project, as well as other businesses affiliated with the individuals involved with the project.

a. The authority shall reject an application for registration if any of the following occurs or exists:

(1) The applicant fails to answer the questions and provide all requested information and documents in a timely manner as required by the rules or the application or in a timely manner as otherwise requested by the authority.

(2) The applicant provides false or inaccurate information or documents to the authority.

(3) The applicant, a related person, or a related entity has not filed any local, state, or federal tax returns that are due. This provision shall not apply to an applicant, related person, or related entity that has timely filed an extension to file a local, state or federal tax return.

(4) The applicant, a related person, or a related entity has any overdue local, state, or federal tax liability, including any tax, interest, or penalty.

(5) The applicant, a related person, or a related entity is currently in default, has an uncured breach, or is otherwise not in compliance with any contract, grant award, or tax credit program with the state of Iowa, any agency of the state of Iowa, or any other entity or instrumentality of the state of Iowa.

(6) The applicant, a related person, or a related entity has any past-due amounts owed

to the state of Iowa, any agency of the state of Iowa, any other entity or instrumentality of the state of Iowa, or any person or entity that is eligible to submit claims to the state offset system under Iowa Code section 8A.504.

(7) The authority determines that registering the project, entering into an agreement with the authority, or permitting the applicant's tax credit claim would cause the applicant or another person to default on, breach, or otherwise not comply with any contract, grant award, or tax credit program with the state of Iowa, any agency of the state of Iowa, or any other entity or instrumentality of the state of Iowa.

(8) The authority determines that the applicant will not be able to provide representations, warranties, conditions, or other terms of an agreement that would be acceptable to the authority.

(9) Information is disclosed to the authority that would cause the authority to decline to enter into an agreement with the applicant.

b. Scope of inquiry. The authority may ask the applicant to disclose information and documents about other entities affiliated with the applicant, a related person, or a related entity if the authority determines that the information regarding the applicant, related persons, and related entities does not adequately disclose to the authority the economic, ownership, and management structure and realities related to a project.

49.13(5) *Review period.* In general, the authority will review fully completed registration applications within 30 calendar days of receipt. The 30-day review period will be adhered to as closely as possible; however, it is not mandatory. If any answers, responses, explanations, documents, or other information submitted in connection with

the certification and release of information changes after the applicant has submitted this information to the authority, the applicant must supplement its response to the certification and release of information in writing within 10 business days of the change. If the application is incomplete when submitted or if for any other reason the authority must request additional information, the 30-day review period will restart when the requested information is received by the authority. The authority will reject an application if any requested information is not provided.

49.13(6) *Scoring process.* All completed applications will be reviewed and scored. In order for a project to be considered for registration, the application must meet a minimum score as established by the authority and set forth in the current registration application. Scoring of the application will take into account readiness criteria, which may include the following:

- a.* Rehabilitation planning and project readiness. Projects will be scored based on whether the Part 2 application was approved with or without conditions.
- b.* Secured financing. Weighted preference will be given to projects that have financing or equity or both in place.
- c.* Steps taken towards ownership. Weighted preference will be given to the projects of applicants that are currently fee simple owners of the property.
- d.* Local government support. Weighted preference will be given to projects that have received support from their local jurisdiction.
- e.* Rehabilitation time line. Weighted preference will be given to projects that will be completed in the shortest amount of time.

f. Zoning and code review. Weighted preference will be given to the projects of applicants that can demonstrate a determination by the authority having jurisdiction that the project complies with the guidelines for construction permitting.

g. Such other information as the authority may find relevant and request on the registration application.

49.13(7) *Registration.* Upon reviewing and scoring all applications that are part of the application period, the authority may register the qualified rehabilitation projects to the extent sufficient tax credits are available based on the estimated qualified rehabilitation costs identified in the registration applications. Only projects that meet the minimum score established by the authority may be registered. As described in rule 261—49.6(404A), in the case of insufficient funding, preference will be given to the projects with the highest registration score based on the criteria in subrule 49.13(6). At the time the project is registered, the authority shall make a preliminary determination as to the amount of tax credits for which the project qualifies. The authority shall make best efforts to notify the applicant within 45 calendar days after the close of the registration period as to whether the applicant’s project has been registered. The registration notice shall include the amount of the applicant’s tentative tax credit award, along with a notice that the amount is a preliminary, nonbinding determination only. The authority will notify applicants whose projects were not registered and state whether the failure to register the project was due to the failure of the project to meet the minimum score, the lack of available tax credits, or another reason. A list of registered applicants will be posted by the authority on the authority’s website.

49.13(8) *Small project registration application.* The authority may establish for small projects a registration application form and process that differ from the application form and process used for large projects. Small project application forms may be obtained by contacting the authority or by visiting the authority's website.

Small projects may submit registration applications year-round; however, the registration application must be submitted no later than 180 calendar days after receipt of approval of the Part 2 application from the authority. Small project registration applications will be evaluated on a first-come, first-served basis, subject to the availability of tax credits.

261—49.14(404A) Agreement. Upon successful registration of the project as described in subrule 49.13(8), the eligible taxpayer shall have 120 calendar days or until the end of the fiscal year, whichever is less, to purchase or lease the property, if applicable, and enter into an agreement with the authority. Nothing in these rules shall affect the authority's ability to comply with the annual award limitations described in Iowa Code section 404A.4. A condition precedent to any agreement will be proof that the eligible taxpayer is the actual fee simple owner or has a binding qualified long-term lease that meets the requirements of the federal rehabilitation credit. An eligible taxpayer shall not be eligible for historic tax credits unless the eligible taxpayer enters into an agreement with the authority concerning the qualifying rehabilitation project and satisfies the terms and conditions that must be met to receive the tax credit award.

49.14(1) *Terms and conditions.* The agreement shall contain mutually agreeable terms and conditions, which shall, at a minimum, provide for the following:

- a.* The maximum amount of the tax credit award. Notwithstanding anything in this

chapter to the contrary, no tax credit certificate shall be issued until the authority verifies the amount of final qualified rehabilitation expenditures and compliance with all other requirements of the agreement, Iowa Code chapter 404A, and the applicable rules.

b. The rehabilitation work to be performed. An eligible taxpayer shall perform the rehabilitation work consistent with the United States secretary of the interior's standards for rehabilitation, as determined by the department.

c. The budget of the qualified rehabilitation project, including the projected qualified rehabilitation expenditures, and those expenditures not qualified, and allowable cost overruns. The amount of allowable cost overruns provided for in the agreement shall not exceed the following amounts:

(1) For a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of not more than \$750,000, 15 percent of the projected qualified rehabilitation expenditures provided for in the agreement.

(2) For a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of more than \$750,000 but not more than \$6 million, 10 percent of the projected qualified rehabilitation expenditures provided for in the agreement.

(3) For a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of more than \$6 million, 5 percent of the projected qualified rehabilitation expenditures provided for in the agreement.

d. A schedule of all funding sources received or anticipated to be received that will be used to fund the project, including those funding sources used or that will be used to finance or reimburse both qualified rehabilitation expenditures and those expenditures not

being claimed as qualified rehabilitation expenditures, along with supporting documentation. The schedule must identify all government funding as defined in rule 261—49.3(404A), including any funding that originated or will originate from any government, whether federal, state, or local.

e. The commencement date.

f. The completion date.

g. The agreement termination date, which shall not be earlier than five years from the date on which the tax credit certificate is issued.

h. Such other terms, conditions, representations, and warranties as the authority may determine are necessary or desirable to protect the interests of the state.

49.14(2) Amendments. The authority may for good cause amend an agreement. However, the authority may not amend an agreement to allow cost overruns in excess of the amount described in paragraph 49.14(1)“c.” In addition, the commencement date, completion date, and agreement termination date may not be amended if such an amendment would violate the statutorily prescribed time limits as described in Iowa Code section 404A.3(3). Any amendment approved by the authority shall be signed by both parties.

49.14(3) Authority. Only the director or chief operating officer may enter into agreements on behalf of the authority. Any agreement entered into on behalf of the authority by a person other than the director or chief operating officer shall be void.

261—49.15(404A) Part 3 application—request for certification of completed work and verification of qualified rehabilitation expenditures. Part 3 of the application is

used to determine whether the project has complied with the terms of the agreement as well as with applicable laws, rules and regulations.

49.15(1) *Submission period.* The fully completed Part 3 application must be submitted no more than 180 calendar days after the project completion date as defined in the agreement.

49.15(2) *Required information.* The Part 3 application must include the following information:

a. Certification that the eligible taxpayer is the fee simple owner or is qualified for the federal rehabilitation credit and has a binding qualified long-term lease that meets the requirements of the federal rehabilitation credit.

b. Using the qualified rehabilitation expenditures schedule form provided by the authority, a schedule of total expenditures for the project, which shall identify in detail the final qualified rehabilitation expenditures and those expenditures that are not qualified. The qualified rehabilitation expenditures schedules form may be obtained by contacting the authority or by visiting the authority's website.

c. A schedule of all funding sources used to finance the project, including those funding sources used to finance or reimburse both qualified rehabilitation expenditures and expenditures not being claimed as qualified rehabilitation expenditures, along with supporting documentation. The schedule must identify all government funding as defined in rule 261—49.3(404A), including any funding that originated from any government, whether federal, state, or local.

d. CPA examination. An eligible taxpayer shall engage a certified public accountant authorized to practice in this state to conduct an examination of the project in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements. The attestation applicable to this examination is SSAE No. 10 (as amended by SSAE Nos. 11, 12, 14), AT section 101 and AT section 601. Upon completion of the qualified rehabilitation project, the eligible taxpayer shall submit the examination to the authority, along with a statement of the amount of final qualified rehabilitation expenditures and any other information deemed necessary by the authority in order to verify that all requirements of the agreement, Iowa Code chapter 404A, and all rules adopted pursuant to Iowa Code chapter 404A have been satisfied.

The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in his or her professional judgment, the qualified rehabilitation expenditures claimed are eligible pursuant to the agreement, Iowa Code chapter 404A, and all rules adopted pursuant to Iowa Code chapter 404A. The documents reviewed by the CPA should be readily available to the authority upon request. The applicant should generally be able to provide the requested documents within ten (10) business days of a request from the authority.

The examination requirement is waived for an eligible taxpayer if the final qualified rehabilitation expenditures of the qualified rehabilitation project, as verified by the authority, do not exceed \$100,000 and the qualified rehabilitation project is funded exclusively by private funding sources. The authority reserves the right to request any additional information necessary to verify the final qualified rehabilitation expenditures

and, if deemed necessary by the authority, to require that such an eligible taxpayer engage a CPA to conduct an examination of the project pursuant to this subsection.

e. Any other information deemed necessary by the authority in order to verify that all requirements of the agreement, Iowa Code chapter 404A, and all rules adopted pursuant to Iowa Code chapter 404A have been satisfied.

f. Election to receive either a refundable or a nonrefundable tax credit. The taxpayer's election does not impact a transferee's ability to make its own election upon transfer. For information on transferring tax credits see department of revenue rule 701—42.55.

g. Any information the authority may require for program evaluation.

49.15(3) *Review period.* The authority will make best efforts to review Part 3 applications within 60 calendar days after the application is filed. However, this time frame is not binding upon the authority. The authority shall review the information submitted by the eligible taxpayer and determine whether a tax credit certificate may be issued. See rule 261—49.17(404A) for more information on certificate issuance.

261—49.16(404A) Fees. Applicants must pay a nonrefundable fee for the processing of Parts 2 and 3 of an application. The review fee for Part 2 will be due with the filing of the Part 2 application and will be based on the estimated qualified rehabilitation costs. The fee for review of Part 3 will be due with the filing of the Part 3 application and will be based on the final qualified rehabilitation expenditures. The fee schedule is as follows:

For projects with qualified rehabilitation expenditures of:	Part 2 Processing Fee	Part 3 Processing Fee
\$50,000 or less	No cost	No cost
\$50,001 to \$100,000	\$250	\$250
\$100,001 to \$750,000	\$500	\$500
\$750,001 to \$6,000,000	\$1,000	0.5 percent of final qualified rehabilitation expenditures
Over \$6,000,000	\$1,500	\$30,000

261—49.17(404A) Compliance.

49.17(1) *Annual reports.* The eligible taxpayer shall, for the length of the agreement, annually certify to the authority compliance with the requirements of the agreement. The certification shall be due each year on the anniversary of the date upon which the agreement was entered into. Instructions and forms may be obtained by contacting the authority or by visiting the authority's website.

49.17(2) *Burden of proof.* The eligible taxpayer shall have the burden of proof to demonstrate to the authority that all requirements of the agreement, Iowa Code chapter 404A, and the applicable rules are satisfied. The taxpayer shall notify the authority in a timely manner of any changes in the qualification of the rehabilitation project or in the

eligibility of the taxpayer to claim the tax credit provided under this chapter, or of any other change that may have a negative impact on the eligible taxpayer's ability to successfully complete any requirement under the agreement.

49.17(3) *Events of default, revocation, recapture.* If, after entering into the agreement but before a tax credit certificate is issued, the eligible taxpayer or the qualified rehabilitation project no longer meets the requirements of the agreement, Iowa Code chapter 404A, and the applicable rules, the authority may find the taxpayer in default and may revoke the tax credit award.

a. Voluntary abandonment. An applicant may choose to irrevocably decline the tax credit that is the subject of the agreement at any time after the agreement is entered into. To irrevocably decline the tax credit, the applicant shall send a letter to the authority stating the applicant's decision to irrevocably decline the tax credit. The authority shall notify the applicant by certified U.S. mail or courier that the tax credit has been irrevocably declined. The tax credit shall be reallocated to the extent permitted by Iowa Code section 404A.4. If the applicant wishes to apply for a tax credit on the same qualified rehabilitation project at a later date, the applicant must complete the application process as though the project is a new project.

b. Revocation and recapture for prohibited activity; liability of certain transferees. If an eligible taxpayer obtains a tax credit certificate from the authority by way of a prohibited activity, the eligible taxpayer and any transferee shall be jointly and severally liable to the state for the amount of the tax credits so issued, interest and penalties allowed under Iowa Code chapter 422, and reasonable attorney fees and litigation costs,

except that the liability of the transferee shall not exceed an amount equal to the amount of the tax credits acquired by the transferee. The department of revenue, upon notification or discovery that a tax credit certificate was issued to an eligible taxpayer by way of a prohibited activity, shall revoke any outstanding tax credit and seek repayment of the value of any tax credit already claimed, and the failure to make such a repayment may be treated by the department of revenue in the same manner as a failure to pay the tax shown due or required to be shown due with the filing of a return or deposit form. A qualifying transferee is not subject to the liability, revocation, and repayment imposed under this paragraph. For purposes of this paragraph:

(0) “Control” means when a person, directly or indirectly or acting through or together with one or more persons, satisfies any of the following:

1. Owns, controls, or has the power to vote fifty percent or more of any class of voting securities or voting membership interests of another person.

2. Controls, in any manner, the election of a majority of the directors, managers, trustees, or other persons exercising similar functions of another person.

3. Has the power to exercise a controlling influence over the management or policies of another person.

(1) “Prohibited activity” means a breach or default under the agreement with the authority, the violation of any warranty provided by the eligible taxpayer to SHPO or the authority, the claiming of a tax credit issued under this chapter for expenditures that are not qualified rehabilitation expenditures, the violation of any requirements of Iowa Code chapter 404A or rules adopted pursuant to Iowa Code chapter 404A, misrepresentation,

fraud, or any other unlawful act or omission.

(2) “Qualifying transferee” means a transferee who acquires a tax credit certificate issued under this chapter for value, in good faith, without express or implied notice of a prohibited activity of the eligible taxpayer who was originally issued the tax credit, and without express or implied notice of any other claim to or defense against the tax credit, and which transferee is not associated with the eligible taxpayer by being one or more of the following:

1. An owner, member, shareholder, or partner of the eligible taxpayer who directly or indirectly owns and controls, in whole or in part, the eligible taxpayer.
2. A director, officer, or employee of the eligible taxpayer.
3. A relative of the eligible taxpayer or a person listed in paragraph “1” or “2” of this subparagraph or, if the eligible taxpayer or an owner, member, shareholder, or partner of the eligible taxpayer is a legal entity, the natural persons who ultimately own such legal entity.
4. A person who is owned or controlled, in whole or in part, by a person listed in paragraph “1” or “2” of this subparagraph.

(3) “Relative” means an individual related by consanguinity within the second degree as determined by common law, a spouse, or an individual related to a spouse within the second degree as so determined, and includes an individual in an adoptive relationship within the second degree.

261—49.18(404A) Certificate issuance; claiming the tax credit. After determining whether the terms of the agreement, Iowa Code chapter 404A, and the applicable rules

have been met, the authority shall issue a tax credit certificate to the eligible taxpayer stating the amount of tax credit under Iowa Code section 404A.2 the eligible taxpayer may claim, or the authority shall issue a notice that the eligible taxpayer is not eligible to receive a tax credit certificate. The authority shall issue the tax credit certificate or the notice not later than 60 days following the completion of the examination review, if applicable, and the verifications required under this rule. Notwithstanding the foregoing, the eligibility of the tax credit remains subject to audit by the department of revenue in accordance with Iowa Code chapters 421 and 422. For information on how to claim the tax credit, see department of revenue rules 701—42.54(404A,422), 701—52.47(404A,422), and 701—58.10(404A,422).

261—49.19(303,404A) Appeals. Any person wishing to contest an application denial, the amount of the tax credit award, award revocation, or any authority action that entitles the person to a contested case proceeding shall file an appeal, in writing, within 30 days of the action giving rise to the appeal. Any person who does not seek an appeal within 30 days of the action that gives rise to a right to a contested case proceeding shall be precluded from challenging the action. Appeals will be governed by the procedures set forth in this rule, together with the process set out in Iowa Code sections 17A.10 to 17A.19. Challenges to an action by the department of revenue related to tax credit transfers, claiming of tax credits, tax credit revocation, or repayment or recovery of tax credits must be brought pursuant to department of revenue 701—Chapter 7.

49.19(1) Contents. The appeal shall contain the following in separate numbered paragraphs:

- a.* A statement of the authority action giving rise to the appeal.
- b.* The date of the authority action giving rise to the appeal.
- c.* Each error alleged to have been committed, listed as a separate paragraph. For each error listed, an explanation of the error and all relevant facts related to the error shall be provided.
- d.* Reference to the particular statutes, rules, or agreement terms involved, if known.
- e.* A statement setting forth the relief sought.
- f.* The signature of the person or that person's representative and the mailing addresses, telephone numbers, and e-mail addresses of the person and the person's representative.

49.19(2) *Contested case proceedings.* The presiding officer in any contested case proceeding shall be an administrative law judge who specializes in tax matters.

These rules are intended to implement Iowa Code chapter 404A as amended by 2016 Iowa Acts, House File 2443.

(DES MOINES) – Gov. Terry E. Branstad announced today that he has made appointments to the Enhance Iowa Board. The Enhance Iowa Board was created through [Senate File 2308](#), which was an act relating to economic development by establishing an Enhance Iowa Board to assume the powers and duties of the Vision Iowa Board and other duties. This bill passed the Iowa Senate 49-0 and the Iowa House 96-0.

The following individuals' appointments are effective August 29, 2016 and end April 30, 2017, are unpaid and are subject to Iowa Senate confirmation.

Stefanie Kohn, Cedar Rapids
Lisa Hein, Ames
Kate McGann, Malvern
Derek Lumsden, Osceola
Michael Broshar, Buckingham

The following individuals' appointments are effective August 29, 2016 and end April 30, 2018, are unpaid and are subject to Iowa Senate confirmation.

Emily Schirmer, Indianola
Mark Kapfer, Bettendorf
Jacob Anderson, Van Meter
Eric Bookmeyer, Mason City
Tammy Robinson, New Hampton
Charese Yanney, Sioux City

The Enhance Iowa Board has not scheduled their first meeting date but is anticipated to meet in September 2016.

From: Annelise Jensen
To: [Cownie, Frank](#)
Cc: [Blue Campaign DHS](#)
Subject: National Human Trafficking Awareness Campaign: Free Resources
Date: Tuesday, February 07, 2017 12:51:16 PM
Attachments: [Blue Campaign One Pager.pdf](#)

Hello,

My name is Annelise and I am a communications specialist with The District Communications Group. My firm has been contracted by the Department of Homeland Security to help share the message about its human trafficking prevention initiative called the Blue Campaign (<http://www.dhs.gov/blue-campaign>). Human trafficking is the coercion of individuals to participate in forced labor, domestic servitude or the sex trade against their will.

The Blue Campaign offers a suite of free materials that you can use to increase awareness of human trafficking in the United States. You can view and download all Blue Campaign materials here: www.dhs.gov/blue-campaign/share-resources.

Please take a look and feel free to use these resources as you best see fit, and let us know how you are using them!

Blue Campaign materials and content can be shared through newsletters, social media, websites, blogs and awareness posters can be displayed in your facilities.

We would love your support in raising awareness of human trafficking and educating others to recognize and report human trafficking, which is a horrific - and under reported - crime reaching all areas, races, ages and demographics across the nation.

Attached is some more information about Blue Campaign, human trafficking and free campaign resources available to you. Please reach out with any questions. Thank you!

Best,

Annelise

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Annelise Jensen | [The District Communications Group](#)

Account Coordinator

M: [571-594-2273](tel:571-594-2273)

Connect with us!





The DHS Blue Campaign: Combating Human Trafficking

About the DHS Blue Campaign

The Department of Homeland Security (DHS)'s Blue Campaign works to combat the heinous crime of human trafficking by raising awareness around the country. Created in 2010, the Blue Campaign works with law enforcement, government, non-government and private organizations, to protect the basic right of freedom and bring those who exploit human lives to justice. The Blue Campaign provides free resources to educate and train professionals and the general public to recognize and report human trafficking.

Human Trafficking 101

- Human trafficking is modern day slavery involving the exploitation of a person through force, fraud or coercion.
- Human trafficking is a highly profitable global crime.
- Millions of men, women and children are trafficked into forced labor situations and the sex trade.
- Victims are found in legitimate and illegitimate labor industries, including sweatshops, massage parlors, agricultural fields, restaurants, hotels and domestic service.
- Human trafficking happens everywhere, even in the United States, and victims can be U.S. citizens or of any nationality, age, socioeconomic status or gender.
- Thousands of human trafficking cases are reported every year in the United States, but many more go unnoticed.

How to Get Involved



Download the free Blue Campaign posters and materials to post and distribute in your community.



Follow the Blue Campaign on Facebook, share our content, tag us in your posts about human trafficking awareness and education efforts and use **#BlueCampaign** and **#endtrafficking**.



Download the Blue Campaign PSAs and share them on your organization's social media channels and with other organizations in your community.



Take the Human Trafficking Awareness Training online and encourage your employees, partners and community to take the training.



Promote your organization's work with Blue Campaign on your website or company blog.

From: Annelise Jensen
To: [Cownie, Frank](#)
Cc: [Blue Campaign DHS](#)
Subject: National Human Trafficking Awareness Campaign: Free Resources
Date: Thursday, February 09, 2017 9:57:48 AM
Attachments: [Blue Campaign One Pager.pdf](#)

Hello,

My name is Annelise and I am a communications specialist with The District Communications Group. My firm has been contracted by the Department of Homeland Security to help share the message about its human trafficking prevention initiative called the Blue Campaign (<http://www.dhs.gov/blue-campaign>). Human trafficking is the coercion of individuals to participate in forced labor, domestic servitude or the sex trade against their will.

The Blue Campaign offers a suite of free materials that you can use to increase awareness of human trafficking in the United States. You can view and download all Blue Campaign materials here: www.dhs.gov/blue-campaign/share-resources.

Please take a look and feel free to use these resources as you best see fit, and let us know how you are using them!

Blue Campaign materials and content can be shared through newsletters, social media, websites, blogs and awareness posters can be displayed in your facilities.

We would love your support in raising awareness of human trafficking and educating others to recognize and report human trafficking, which is a horrific - and under reported - crime reaching all areas, races, ages and demographics across the nation.

Attached is some more information about Blue Campaign, human trafficking and free campaign resources available to you. Please reach out with any questions. Thank you!

Best,

Annelise

--

Annelise Jensen | [The District Communications Group](#)

Account Coordinator

M: [571-594-2273](tel:571-594-2273)

Connect with us!





The DHS Blue Campaign: Combating Human Trafficking

About the DHS Blue Campaign

The Department of Homeland Security (DHS)'s Blue Campaign works to combat the heinous crime of human trafficking by raising awareness around the country. Created in 2010, the Blue Campaign works with law enforcement, government, non-government and private organizations, to protect the basic right of freedom and bring those who exploit human lives to justice. The Blue Campaign provides free resources to educate and train professionals and the general public to recognize and report human trafficking.

Human Trafficking 101

- Human trafficking is modern day slavery involving the exploitation of a person through force, fraud or coercion.
- Human trafficking is a highly profitable global crime.
- Millions of men, women and children are trafficked into forced labor situations and the sex trade.
- Victims are found in legitimate and illegitimate labor industries, including sweatshops, massage parlors, agricultural fields, restaurants, hotels and domestic service.
- Human trafficking happens everywhere, even in the United States, and victims can be U.S. citizens or of any nationality, age, socioeconomic status or gender.
- Thousands of human trafficking cases are reported every year in the United States, but many more go unnoticed.

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Promote your organization's work with Blue Campaign on your website or company blog.

From: Reyes-Snyder, Sonia [DHR]
To: [Cownie, Frank](#)
Subject: Office of Latino Affairs Announcements
Date: Friday, March 11, 2016 2:43:49 PM

Office of Latino Affairs Announcements

March 11, 2016

*This is a compilation of information and announcements that impact the Latino community.
It is intended to disseminate information to service providers and other stakeholders that
serve and work with lowans of Latino heritage.*

ANNOUNCEMENTS

DES MOINES-Refugee Green Card Clinic

Saturday, March 26th, 2016 at DMACC Urban Campus, Des Moines
Please call to make an appointment, Tel: 515-255-9809 ext. 201 E-mail:
AngelalowaJFON@gmail.com

IOWA LIHEAP AND WEATHERIZATION SERVICES

The Low-Income Home Energy Assistance Program (LIHEAP) is designed to assist low income families meet the cost of home heating.

Applications are accepted on a first come/first served basis at your local community action agency from November 1 through April 30 (October 1 for households with elderly/disabled member), Monday through Friday, or as posted at the local community action office.

YOUNG ENGINEERS AND SCIENTISTS PROGRAM AT IOWA STATE UNIVERSITY

Applications are now open for [The Young Engineers and Scientists](#) (YES) summer internship program held at ISU. The application deadline is **March 15th**.

YES is a six-week program which provides high school students with opportunities to participate in on-going research and exposure to academic and career opportunities. Each student receives a stipend for participation and transportation is provided for students in the Des Moines and Marshalltown area. More information can be found by visiting our [website](#).

Successful Applicants:

- Demonstrate an interest in pursuing a science or engineering degree at the college level
- Have at least two years of high school math and science courses
- Are self-motivated, determined, and good team members
- Are students entering their 11th or 12th grade year in 2016

Participation in the Young Engineers and Scientists Program requires students to be **16** years of age at the start date of the internship and students to work 40 hours a week during their 6 week summer internship

DES MOINES-Children in the Middle Classes in Spanish

Children in the Middle in Spanish classes deal with the full range of issues that put children in the middle of parental separation.

Parents of minor children and adult children in the legal process of custody are required to take the class. The participation in the class includes parents divorcing, separating (never married), still living in the same house, involved in short term relationships, adoption or foster care in some cases, modifying an existing final court decree and other partnership arrangements.

This class meets the legal and court requirements for divorce and separation cases. Please contact to Betty Mond at 515-778-2080 or bettymond@yahoo.com for more information.

Latina Leadership Initiative of Greater Des Moines

You are cordially invited to the 2016 Community Project Presentations where the Class of 2016 will share their projects and share about the impact they made while partnering with local agencies.

Date: Saturday, April 16th

Time: 10-12

For more details [click here](#).

DES MOINES-Bilingual Storytime

New program being offered by Des Moines Public Libraries—Forest Avenue Branch:
[Bilingual Storytime](#)

HISPANIC HEALTH FORUM

CDC's Office of Minority Health and Health Equity (OMHHE) invites you to the upcoming Public Health Ethics Forum, co-sponsored with Tuskegee University, Morehouse School of Medicine, and the CDC Hispanic/Latino Health Workgroup.

The event will take place April 22, 2016, from 8:30 a.m. to 3:30 p.m. at the CDC headquarters in Atlanta, GA. The title of the forum is *"Making Latino/Hispanic Health Count: Advancing a Public Health Ethics Framework on Data Collection for Social Justice."* The forum is open to interested CDC staff, sister federal health agencies, state and local health departments, academic institutions, students, national organizations and community-based organizations.

You can sign up at the link below to attend in person or via Skype business meeting
<http://tuskegeebioethics.org/events/public-health-ethics-form/>

MARSHALLTOWN-Latinos Living Well Classes

Latino families will learn how to improve their health and stay fit during a four-week series (March and April) of free classes offered by dietitian Mary Krisco from Iowa State University Extension and Outreach.

[Spanish Flier.](#)

CEDAR RAPIDS-Money Mondays

Begin your New Year with a plan to budget, save money, clean up your credit and pay off your debt!

Vote for your favorite Women's History Month video! Voting ends at 4 p.m. on Friday, March 25th

The polls are now open to vote for your favorite Women's History Month videos!

Visit our [website](#) to view the videos and click on the [Women's History Month Contest Voting Form](#) to place your votes. Voting will be open from Friday, March 11th to 4 p.m. on Friday, March 25th.

The top two districts (one winner in each category) will be awarded a \$500 prize to be used for school supplies for the winning classroom. The two \$500 awards are made possible by the Friends of the Iowa Commission on the Status of Women, the not-for-profit organization that supports and assists with the charitable and educational activities of the Iowa Commission on the Status of Women (ICSW).

IOWA CITY-New Iowans Legal Advice Clinic

A free legal advice clinic for all people.

Consultations will be given with attorneys on a first come first served basis about issues such as:

- Landlord/tenant
- Immigration
- Employment/Work Issues
- Family Law
- Personal Lawsuit
- Estate Planning
- Consumer Issues

Click here for the [English](#) or [Spanish](#) flyer.

TAX PREPARATION SITES

VITA-Free Tax Preparation Sites-Enter your zip code to find sites close to you.

Ankeny, Des Moines, Perry, & Indianola

Des Moines Area Community College-Urban Campus

Council Bluffs-Centro Latino

SCHOLARSHIPS

Each year, the [ACLU](#) of Iowa gives out the Robert Mannheimer Youth Advocacy Award. Deadline for submission is **Monday, April 25.**

A \$500 cash prize is given to a young Iowan ages 14 to 19 who has demonstrated a passion and advocacy for civil liberties.

Areas might include:

- Free speech/free expression
- LGBTQ issues
- Immigrants' rights
- Racial equality and advocacy
- Gender equality
- Religious freedom
- Government and technology/privacy issues
- Disability rights
- Voter education

The process to nominate a young person is fairly fast and easy. Please to take a few moments to nominate a young person you know!

Click below for more information:

Community Youth Concepts

Do you know a student who has contributed 50 or more hours of volunteer service to their community? Are YOU a student who has contributed 50 or more hours of service to your community? [Application](#) deadline is **Monday, March 21, 2016**

Iowa College Student Aid Commission

[Resources for Latin@ Students/Recursos para estudiantes Latin@](#)

According to data from the Iowa Department of Education, Iowa's school-age population has become more diverse over the past decade and projections indicate that trend will continue. Within the next ten years, high school graduating classes in Iowa's public schools will be even more diverse with the most significant increases expected from the Hispanic student population. Hispanic students are projected to more than double over that same time period, accounting for nearly one in ten Iowa graduates by 2019-2020*. To help Latin@ students in Iowa overcome barriers to postsecondary education, Iowa College Aid has compiled the following resources to assist Latin@ families as they plan, prepare and pay for college.

De acuerdo a la información del Departamento de Educación del estado de Iowa, la población en edad escolar de Iowa se ha diversificado en la última década y las

proyecciones indican que la tendencia continuará. Dentro de los próximos diez años, los estudiantes quienes se gradúen de las preparatorias públicas en el estado de Iowa serán aún más diversos; los aumentos más significativos se esperan de la población estudiantil hispana. Proyecciones indican que los estudiantes hispanos van a duplicar durante este mismo tiempo, lo que representa casi uno de cada diez graduados de Iowa por 2019-2020. Para poder asistir a los estudiantes Latin@ en el estado de Iowa superar las barreras a la educación postsecundaria, Iowa College Aid ha compilado los siguientes recursos para ayudar a las familias a medida que planifican, preparan y pagan para la universidad.

American Friends Service Committee's Latino Immigrant Youth Program

[This program](#) has created a scholarship for Latino youth of immigrant background. Please encourage youth to apply.

Registration is **from November 16, 2015 to March 30, 2016.**

Latinos Unidos 2016-2017 Scholarship

[Application](#) Deadline **Friday – June 17, 2016.**

All scholarship recipients will be notified in mid-September, 2016. Scholarship recipients are asked to attend the award ceremony held in Des Moines in late September.

COMMUNITY EVENTS

WARREN COUNTY Toddlerfest

[The Warren County Toddlerfest](#) is Saturday April 2, 2016 from 9:00 - 11:30 AM at the Carlisle Middle School, 325 Scottsridge Road, Carlisle Iowa. This is a fun morning of free activities dedicated to children ages 2 to 5 years of age and their parents/caregivers. If your agency and program would like to be a part of this event, please complete the needed information no later than **March 25, 2016.**

DES MOINES-Facing Race...One Conversation at a Time

Join Carol Spaulding-Kruse & Des Moines Register columnist Kyle Munson at the next Spring 2016 event!

- Feb 26 - [The Color of Democracy](#)
- March 3 - [Clashmates: Race in Schools](#)
- March 31 - [Tough Talk on Race](#)
- April 15 - [Criminal Justice](#)
- May 6 - [One Night United](#)

[#Unitelowa on Race at Drake](#)

VOLUNTEER OPPORTUNITIES

¡AL ÉXITO!

An Iowa-based organization which provides programming and mentoring for middle and

high school Latino students, family programming and events, and interaction with Latino students on college campuses to motivate students to stay in school and plan for education beyond high school.

Get involved: <https://alexitoiowa.org/>

Solidarity Microfinance

If you are passionate about economic development, entrepreneurship, small business development, women's empowerment and/or community building, please join us in making a difference in Des Moines.

We are looking for volunteers to help us with outreach activities such as making calls and canvassing. Bi-lingual English and Arabic or English and Spanish speakers would add much needed support but is not a requirement. This is a great opportunity to make a big impact in the lives of families in Des Moines. Please email info@solidaritymicrofinance.org for more information

EMPLOYMENT

CEDAR RAPIDS-Peace Corps

Wage and Hour Investigator position available with US Department of Labor and Wage and Hour Division in Cedar Rapids, IA .**Spanish Required.** If you are a veteran, have NCE as a RPCV or former Peace Corps employee or have reinstatement/competitive eligibility you are eligible to be considered.

The announcement will close **03/16/16**.

For more information and or apply click [here](#).

Iowa State University-Extension and Outreach

- Youth Nutrition and engagement Associate and Educator Position-Polk County
To apply or get more information click [here](#).
- 10 positions available for 4-H Extension and Outreach Youth Summer Camp Instructors.

Primary work assignment will be at the Iowa 4-H Center near Madrid, Iowa. May also lead or support educational activities at events in other locations around the state.

- Pay is \$250 per week.
- Room/Lodging is provided as well as many of the meals.
- May 23, 2016 to July 31, 2016.

For more information click [here](#)

Heartland Area Education Agency

Employment opportunities available across the state, bilingual skills are a plus, but not required. For more details go to <http://www.heartlandaea.org/career-opportunities/current-openings>

Central Iowa Works

Jobs for the week of [March 7th, 2016](#)

City of Des Moines Civil and Human Rights Department

Human Rights Specialist positions, please apply through the City's website.

[Job Posting](#)

DENISON-Job Corps

The following job openings are available:

- Academic Instructor
- Dental Assistant
- LPN
- Residential advisor
- Security Officer
- Vehicle Operator

Click [here](#) to apply.

State of Iowa Employment

INFORMATION

Half of black gay men and a quarter of Latino gay men projected to be diagnosed with HIV within their lifetime

If current HIV diagnoses rates persist, about 1 in 2 black men who have sex with men (MSM) and 1 in 4 Latino MSM in the United States will be diagnosed with HIV during their lifetime, according to a new analysis by researchers at the Centers for Disease Control and Prevention (CDC). The study, presented today at the Conference on Retroviruses and Opportunistic Infections in Boston, provides the first-ever comprehensive national estimates of the lifetime risk of an HIV diagnosis for several key populations at risk and in every state.

“As alarming as these lifetime risk estimates are, they are not a foregone conclusion. They are a call to action,” said Jonathan Mermin, M.D., director of CDC’s National Center for HIV/AIDS, Viral Hepatitis, STD, and Tuberculosis Prevention. “The prevention and care strategies we have at our disposal today provide a promising outlook for future reductions of HIV infections and disparities in the U.S., but hundreds of thousands of people will be diagnosed in their lifetime if we don’t scale up efforts now.” If current HIV diagnoses rates persist, about 1 in 2 black men who have sex with men (MSM) and 1 in 4 Latino MSM in the United States will be diagnosed with HIV during their lifetime, according to a new analysis by researchers at the Centers for Disease Control and Prevention (CDC). The study, presented today at the Conference on Retroviruses and Opportunistic Infections in Boston, provides the first-ever comprehensive national estimates of the lifetime risk of an HIV diagnosis for several key populations at risk and in every state.

CDC researchers used diagnoses and death rates from 2009-2013 to project the lifetime risk of HIV diagnosis in the United States by sex, race and ethnicity, state, and HIV risk group, assuming diagnoses rates remain constant. Overall, the lifetime risk of HIV diagnosis in the U.S. is now 1 in 99, an improvement from a previous analysis using 2004-2005 data that reported overall risk at 1 in 78.

However, this overall progress masks large disparities:

- Gay and bisexual men continue to be most affected by the HIV epidemic in the U.S. At current rates, 1 in 6 MSM will be diagnosed with HIV in their lifetime, including 1 in 2 black MSM, 1 in 4 Latino MSM, and 1 in 11 white MSM.
- African Americans are by far the most affected racial or ethnic group with a lifetime HIV risk of 1 in 20 for men (compared to 1 in 132 for whites) and 1 in 48 for women (compared to 1 in 880 for whites).
- People who inject drugs are at much higher lifetime risk than the general population, and women who inject drugs have a higher risk than men (1 in 23 compared with 1 in 36).
- People living in the South are more likely to be diagnosed with HIV over the course of their lifetime than other Americans, with the highest risk in Washington, DC (1 in 13), Maryland (1 in 49), Georgia (1 in 51), Florida (1 in 54), and Louisiana (1 in 56).

Detailed findings, including data for all states and racial/ethnic and risk groups, are available in the [Lifetime Risk of HIV Diagnosis in the United States Fact Sheet](#).

“These estimates are a sobering reminder that gay and bisexual men face an unacceptably high risk for HIV – and of the urgent need for action,” said Eugene McCray, M.D., director of CDC’s Division of HIV/AIDS Prevention. “If we work to ensure that every American has access to the prevention tools we know work, we can avoid the outcomes projected in this study.”

CDC’s High Impact Prevention approach focuses on delivering the most effective prevention strategies – including HIV testing, ongoing care and treatment for people living with HIV, pre-exposure prophylaxis (PrEP, a daily anti-HIV pill for high-risk uninfected people) and condoms – to the populations that are most heavily affected by the epidemic. CDC devotes more HIV prevention resources to MSM, especially MSM of color, than to any other risk group. And since 2010, CDC has greatly increased HIV prevention funding to Southern health departments and community-based organizations, to reflect the burden of HIV in the region.

For more information on the new analysis and CDC's HIV prevention efforts, visit www.cdc.gov/nchhstp/newsroom.

Announcement from Iowa Department of Human Services: Medicaid Special Announcement

Please click [here](#) to find:

- Updates regarding CMS approval
- Important Dates for Members
- Important Dates Providers
- Resources and Tools
- Informational Letters

Hispanics/Latinos and Colorectal Cancer Companion Guide

The [Hispanics/Latinos and Colorectal Cancer Companion Guide \(274\)](#) is a supplement to the [80% by 2018 Communications Guidebook](#), created in 2015 and updated in February 2016. This Companion Guide is based on new market research on Hispanics/Latinos that are not up-to-date with recommended colorectal cancer screening. The Companion Guide includes:

- Perceptions about colorectal cancer and barriers to screening among unscreened Hispanics/Latinos
- Recommendations for reaching unscreened Hispanics/Latinos
- Spanish language tested messages

The Companion Guide reviews what we know from market research about unscreened Hispanics/Latinos and introduces and explains new tested messages. It also provides new tools with the new messages incorporated to get you started:

[Trifold Brochure Spanish 2016 \(215\)](#)

[Trifold Brochure English 2016 \(194\)](#)

Stop Notario Fraud

Pare el Fraude Notarial

The resources on this website are meant to:

- Help immigrants find competent and affordable [legal service providers](#)
- Help [prevent](#) immigrants from being victimized by notarios
- Provide [resources](#) for victims of notarios
- Provide information and resources for attorneys working with victims to remedy crimes committed by fraudulent consultants [unlawfully practicing immigration law](#)

SCAM ALERT: Utility Phone Scam Targets Spanish-Speaking Customers

MidAmerican Energy Company is warning business owners and the public of a phone scam targeting Latino customers in Iowa. Since the start of February, approximately 50 Spanish-speaking customers have reported receiving a call from someone pretending to work for MidAmerican Energy who threatened to shut off their power immediately if payment was not made. Unfortunately, several customers reported losing money.

Please share this information with your clients.

Latinos Unidos

Year End 2015 [Newsletter](#)

Federal Student Aid Free Webinar Series

[Register](#) to learn about the following topics:

Public Service Loan Forgiveness Programs-March 24, 2016

Federal Student Loan Repayment-May5, 2016

Streetcred Studios

Last December, at the Community Foundation's Ignite Innovation Challenge, we proposed a screen printing and digital media studio that puts young people with difficult backgrounds to work. Now, three months later, we are launching [StreetCred Studios](#) with a full-time staff of four. These young people will learn the ins and outs of sales, business, and production, as well as work with Career Planners from CFI's Connect 2 Careers Program.

Sonia Reyes-Snyder | Executive Officer

Office of Latino Affairs | Iowa Department of Human Rights

Lucas State Office Building 321 E 12th Street | Des Moines, IA 50319

Work 515.281.4080 | Cell 515.954.5595 | Fax 515.242.6119

sonia.reyes-snyder@iowa.gov | <https://humanrights.iowa.gov>

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You are currently subscribed to latino as: fcownie@dmgov.org.

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or send a blank email to leave-1126047-2925272.1d908e6c817d5fc1003c64619b5872c6@Lists.ia.gov

From: [Westergaard, Linda C.](#)
To: [Sanders, Scott E.](#); [Cownie, Frank](#)
Subject: Prepared statement
Date: Friday, March 02, 2018 8:45:46 AM
Attachments: [BHHS-East--FRE1_20180302_082225.pdf](#)

This is what I have prepared to say.

Thank you,

Linda Westergaard
Ward 2 City Council Representative
4009 E. 23rd Street
Des Moines, Iowa 50317-4104
515-988-4288

lindaw@dmgov.org

-----Original Message-----

From: FRcopiers@BhhsFirstRealty.com [<mailto:FRcopiers@BhhsFirstRealty.com>]
Sent: Friday, March 2, 2018 8:22 AM
To: Linda Westergaard <lindaw@bhhsfirstrealty.com>
Subject: Scan from BHHS-First Realty Altoona

Reply to: BHHS-East- <FRcopiers@BhhsFirstRealty.com> Device Name: First Realty Altoona Device Model: MX-M465N

Location: First Realty Altoona

File Format: PDF MMR(G4)
Resolution: 200dpi x 200dpi

Attached file is scanned image in PDF format.

Use Acrobat(R)Reader(R) or Adobe(R)Reader(R) of Adobe Systems Incorporated to view the document.

Adobe(R)Reader(R) can be downloaded from the following URL:

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<http://www.adobe.com/>

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Thank you, Senator Ernst and Congressman Young, for your time this morning. I would like to visit with you about several programs that affect our community. the HOME Investment Partnership Program, the Housing Choice Voucher Program, and the Public Housing Program and ask you to help our communities by restoring funding to these programs to pre-2010 levels.

- The HOME Program serves as the only federal block grant program for state and local governments designed exclusively to produce affordable housing for low-income families.**
- HOME has created more than 1.2 million affordable homes and helped provide direct rental assistance to over 270,000 low-income families.**
- HOME is also cost effective – according to the U.S. Department of Housing and Urban Development (HUD) data, each HOME dollar leverages more than four dollars in additional public and private resources. Central Iowa uses state, local and private resources to achieve this leverage.**
- The need for affordable housing in Central Iowa has never been greater.**
- Greater Des Moines is the fastest growing community in the Midwest, in large part due to good paying jobs and excellent quality of life.**

- With this growth, we're seeing all our sectors grow, including hospitality, construction, and education.
- It's imperative that our community has safe, affordable housing for all income levels.
- However even as our need for affordable housing has grown, funding for HOME has fallen dramatically. Over the last several years, HOME funding has been cut nearly in half, from \$1.8 billion in 2010 to \$950 million in 2016.
- A lack of affordable housing will limit our continued economic growth, which will have an impact state-wide.

- **Housing Choice Voucher Program**

-
- The program provides rental assistance for low and moderate-income families in privately owned rental properties.
- Proposed budget cuts could lead to at least 200,000 vouchers being lost nationally and at least 1,800 vouchers in the state of Iowa, a move that would increase homelessness and jeopardize family stability.
- Reduction in administrative fees have continually decreased since 2010 causing staff reductions, and difficulty with compliance of program requirements.

-

- **Public Housing Program**

-

- The program provides affordable housing to 2.2 million residents nationally and over 4,200 residents in the state of Iowa.

- Proposed elimination of capital improvement funds and a 44% decrease, since 2017, of operating funds will decrease the quality and quantity of maintenance services, property management activities, and reduce the number of capital improvement projects.

-

- We need your help to advocate for our families and our communities, and support restoring funding for these programs to pre 2010 levels as this funding is essential in providing decent, safe and affordable housing to low and moderate income households.

-

From: William Grant
To: mayor@okc.gov; mjlandrieu@nola.gov; skbenjamin@columbiasc.net; elizabeth.kautz@burnsvillemn.gov; mayorsoffice@rochesterhills.org; MayorBemis@greshamoregon.gov; webmaster@elizabethnj.org; jbrainard@carmel.in.gov; jcooper@cohb.org; Cownie, Frank; greg.fischer@louisvilleky.gov; Kim.mcmillan@cdelightband.net; jimsc@greenbaywi.gov; mayor@ci.tacoma.wa.us; nan.whaley@daytonohio.gov
Subject: RE: 16-CV-3245 - DOJ Notice of Removal - Fraud, Waste, and Abuse in Illinois
Date: Saturday, January 14, 2017 9:12:29 AM

Greetings,

Please see the U.S. Department of Justice's Notice of Removal. The suit attached to the Notice of Removal will be of interest to many of you. The DOJ has busted the State of Illinois and City of Chicago for rampant fraud, waste, and abuse. The DOJ also busted some Federal violations.

The message is: Democrats are United and Organized. Unions are United and Organized.

William Grant
901 Wythe Road
Springfield, IL 62702
[\(217\)726-5269](tel:(217)726-5269)



2016-MR-000643 Notice of Removal -DOJ.tif

From: William Grant
To: mayor@okc.gov; mjlandrieu@nola.gov; skbenjamin@columbiasc.net; elizabeth.kautz@burnsvillemn.gov; mayorsoffice@rochesterhills.org; MayorBemis@greshamoregon.gov; webmaster@elizabethnj.org; jbrainard@carmel.in.gov; jcooper@cohb.org; [Cownie, Frank](#); greg.fischer@louisvilleky.gov; Kim.mcmillan@cdelightband.net; jimsc@greenbaywi.gov; mayor@ci.tacoma.wa.us; nan.whaley@daytonohio.gov
Subject: RE: 16-CV-3245 - NAACP Complaint - Fraud, Waste, and Abuse in Illinois
Date: Saturday, January 14, 2017 9:13:57 AM

Greetings,

Please see the attached Complaint submitted to the NAACP for investigation. The U.S. Department of Justice created an illegal Program to investigate criminal activity in the state of Illinois and U.S. Federal government.

The message is: Democrats are United and Organized. Unions are United and Organized.

Best regards,

wg

William Grant
901 Wythe Road
Springfield, IL 62702
[\(217\)726-5269](tel:(217)726-5269)

From: William Grant
To: mayor@okc.gov; mjlandrieu@nola.gov; skbenjamin@columbiasec.net; elizabeth.kautz@burnsvillemn.gov; mayoroffice@rochesterhills.org; MayorBemis@greshamoregon.gov; webmaster@elizabethnj.org; jbrainard@carmel.in.gov; jcooper@cohb.org; Cownie, Frank; greg.fischer@louisvilleky.gov; Kim.mcmillan@cdeightband.net; jimsc@greenbaywi.gov; mayor@ci.tacoma.wa.us; nan.whaley@daytonohio.gov
Subject: RE: 16-CV-3245 - Petition for Writ of Certiorai
Date: Saturday, January 14, 2017 9:14:30 AM
Attachments: [16-3748 PETITION FOR WRIT OF CERTIORAI WILLIAM LEE GRANT II.asd.pdf](#)

Greetings,

The U.S. Supreme Court has had this Writ Petition for more than one month. The DOJ has busted the state of Illinois for rampant fraud, waste, and abuse. Obama is cleaning up Illinois prior to leaving Office.

Please see the attached Writ Petition with its Appendices. . You'll enjoy the letter from the U.S. Office of Special Counsel.

The message is: Democrats are United and Organized. Unions are United and Organized.

Regards,

wg

William Grant
901 Wythe Road
Springfield, IL 62702
[\(217\)726-5269](tel:(217)726-5269)

"Fear of The Speaker is called Logic."

----- Forwarded message -----

From: **William Grant** <wgran2@gmail.com>
Date: Mon, Nov 14, 2016 at 3:10 PM
Subject: RE: Petition for Writ of Certiorai - William Lee Grant II
To: meritbriefs@supremecourt.gov, "General, Inspector (OIG)" <inspector.general@usdoj.gov>, oig.hotline@usdoj.gov, dhsoighotline@dhs.gov, CriminalDivision <Criminal.Division@usdoj.gov>, nsd.public@usdoj.gov, "Springfield (FBI)" <springfield@ic.fbi.gov>, david.harmon@ic.fbi.gov
Cc: david.hoff@usdoj.gov, caseview.ecf@usdoj.gov, peter.g.paoli@usdoj.gov, soni.holmes@usdoj.gov, staci.klayer@usdoj.gov, "McNaught, Karen L." <KMcNaught@atg.state.il.us>, bchestnut@atg.state.il.us, bjohnson@atg.state.il.us, bmyers@atg.state.il.us, kturnbull@atg.state.il.us, kwerth@atg.state.il.us, mabecker@atg.state.il.us, "Harris, Gregory (USAILC)" <gregory.harris@usdoj.gov>, gail.noll@usdoj.gov, nwichern@atg.state.il.us, Andy Kohn <andy_kohn@ca7.uscourts.gov>, USCA7_Clerk@ca7.uscourts.gov, CA07_CMECFMail@ca7.uscourts.gov, "rick.kabaker@illinois.gov" <rick.kabaker@illinois.gov>, reportcorruption@chicagoinspectorgeneral.org, clerner@osc.gov, amiles@osc.gov, nschwellenbach@osc.gov, bfong@osc.gov, thoffmann@hds.ilga.gov, Brown@hds.ilga.gov, White House Fellows

Program <whitehousefellows@whf.eop.gov>, info@mail.whitehouse.gov

William Lee Grant II, Petitioner, has sent a copy of the attached Petition for Writ of Certiorari to the Inspector General for the DOJ and the following:

Richard Abel Kabaker Illinois Department of Transportation 69 W. Washington Street, Chicago, Illinois 60601 rick.kabaker@illinois.gov	Karen McNaught Illinois Attorney General's Office 500 S. Second Street Springfield, IL 62702 kmcnaught@atg.state.il.us
David Hoff U.S. Department of Justice 201 South Vince Street, Suite 226 Urbana, Illinois 61802 david.hoff@usdoj.gov	Peter G. Paoli U.S. Department of Justice 201 South Vince Street, Suite 226 Urbana, Illinois 61802 peter.g.paoli@usdoj.gov
Soni Holmes U.S. Department of Justice 201 South Vince Street, Suite 226 Urbana, Illinois 61802 soni.holmes@usdoj.gov	Staci Klayer U.S. Department of Justice 201 South Vince Street, Suite 226 Urbana, Illinois 61802 staci.klayer@usdoj.gov
Illinois Attorney General's Office bchesnut@atg.state.il.us; bjohnson@atg.state.il.us; bmyers@atg.state.il.us; kturnbull@atg.state.il.us; kwerth@atg.state.il.us; mabecker@atg.state.il.us	Gregory K. Harris U.S. Department of Justice 318 South Sixth Street Springfield, Illinois 62702 gregory.harris@usdoj.gov
U.S. Department of Justice	Gail Noll

caseview.ecf@usdoj.gov	U.S. Department of Justice 318 South Sixth Street Springfield, Illinois 62702 gail.noll@usdoj.gov
United States Court of Appeals for the Seventh Circuit 219 S. Dearborn Street Room 2722, Chicago, Illinois 60604 andy_kohn@ca7.uscourts.gov USCA7_Clerk@ca7.uscourts.gov, CA07_CMECFMail@ca7.uscourts.gov	Nadine Wichern Illinois Attorney General's Office 500 South Second Street Springfield, IL 62702 nwichern@atg.state.il.us
Solicitor General of the United States Room 5614 Department of Justice 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530-0001 SupremeCtBriefs@usdoj.gov	Clerk of the Court Supreme Court of the United States Washington, D.C. 20543 meritbriefs@supremecourt.gov

*Note: Ruth Bader Ginsburg has been waiting for this case. Democrats love and adore her!

Best regards,

wg

William Lee Grant II
901 Wythe Road
Springfield, IL 62702
[\(217\)726-5269](tel:(217)726-5269)

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

WILLIAM LEE GRANT II

Petitioner

v.

RICHARD ABEL KABAKER, STATE OF ILLINOIS, and

U.S. DEPARTMENT OF JUSTICE

Respondent

PETITION FOR WRIT OF CERTIORARI TO U.S. SUPREME COURT

William Lee Grant II

**901 Wythe Road
wgran2@gmail.com
(217)726-5269**

MOTION TO PROCEED IFP

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
WILLIAM LEE GRANT II — PETITIONER
VS.
RICHARD ABEL KABAKAER et al.
— RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

[X] Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

ILLINOIS SEVENTH JUDICIAL CIRCUIT

Petitioner's affidavit or declaration in support of this motion is attached hereto.

s/WILLIAM LEE GRANT II

901 Wythe Road
Springfield, IL 62702
(217)726-5269

UNITED STATES DISTRICT COURT
for the
CENTRAL DISTRICT OF ILLINOIS

WILLIAM LEE GRANT II

Plaintiff

v.

RICHARD A. KABAKER ET AL

Defendant

Case No. 16-CV-3245

**AFFIDAVIT ACCOMPANYING MOTION
FOR PERMISSION TO APPEAL IN FORMA PAUPERIS**

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: _____

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: October 20, 2016

My issues on appeal are:

The Order of Judge Colin S. Bruce dismissing the Complaint docketed as 16-CV-3245 for failing to serve Loretta E. Lynch. Appellant served Loretta E. Lynch, and submitted receipt of postage paid to U.S. Clerk's Office.

1. *For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.*

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$583.00	\$NA	\$ 0.00	\$NA
Self-employment	\$0.00	\$NA	\$ 0.00	\$NA
Income from real property (such as rental income)	\$NA	\$NA	\$NA	\$NA
Interest and dividends	\$NA	\$NA	\$NA	\$NA
Gifts	\$NA	\$NA	\$NA	\$NA
Alimony	\$NA	\$NA	\$NA	\$NA
Child support	\$NA	\$NA	\$NA	\$NA
Retirement (such as social security, pensions, annuities, insurance)	\$NA	\$NA	\$NA	\$NA
Disability (such as social security, insurance payments)	\$NA	\$NA	\$NA	\$NA
Unemployment payments	\$30.00	\$NA	\$NA	\$NA
Public-assistance (such as welfare)	\$NA	\$NA	\$NA	\$NA
Other (specify): NA	\$NA	\$NA	\$NA	\$NA
Total monthly income:	\$613.00	\$	\$NA	\$NA

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
Andrea Zoep for U.S. Senate	10920 S. Oakley Avenue, Chicago, IL	10/2015-01/2016	\$2,000.00
IL Governor's Office	207 State House, Springfield, IL	11/2014-12/2014	\$NA
IL Dept of Transportation	100 W. Randolph St., Chicago, IL	01/2012-11/2014	\$4,020.00

Not added to payroll

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
NA	NA	NA	\$NA
NA	NA	NA	\$NA
NA	NA	NA	\$NA

4. How much cash do you and your spouse have? \$ 15.00

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
NA	NA	\$NA	\$NA
NA	NA	\$NA	\$NA
NA	NA	\$NA	\$NA

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	Other real estate	Motor vehicle #1
(Value) \$NA	(Value) \$ NA	(Value) \$2,500.00
NA	NA	Make and year: Volkswagen
		Model: Passat
		Registration #: unknown

Motor vehicle #2NA	Other assetsNA	Other assetsNA
(Value) \$NA	(Value) \$NA	(Value) \$ NA
Make and year: NA	NA	NA
Model: NA	NA	NA
Registration #: NA	NA	NA

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
U.S. Federal governemt	\$30 Trillion	\$NA
State of Illinois	\$30 Trillion	\$NA
Richard Abel Kabaker	\$30 Trillion	\$NA
NA	\$NA	\$NA

7. State the persons who rely on you or your spouse for support.

Name [or, if under 18, initials only]	Relationship	Age
NA	NA	NA
NA	NA	NA
NA	NA	NA

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$0.00	\$NA
Are real estate taxes included?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Is property insurance included?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Utilities (electricity, heating fuel, water, sewer, and telephone)	\$0.00	\$NA
Home maintenance (repairs and upkeep)	\$0.00	\$NA
Food	\$0.00	\$NA
Clothing	\$0.00	\$NA
Laundry and dry-cleaning	\$0.00	\$NA
Medical and dental expenses	\$0.00	\$NA
Transportation (not including motor vehicle payments)	\$0.00	\$NA
Recreation, entertainment, newspapers, magazines, etc.	\$0.00	\$NA
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's: NA	\$NA	\$NA
Life: NA	\$NA	\$NA
Health: NA	\$NA	\$NA
Motor vehicle: NA	\$NA	\$NA
Other: NA	\$NA	\$NA
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$NA	\$NA
Installment payments		
Motor Vehicle: NA	\$NA	\$NA
Credit card (name): NA	\$NA	\$NA
Department store (name): NA	\$NA	\$NA
Other: Federal Student Loans	\$0.00	\$NA
Alimony, maintenance, and support paid to others	\$NA	\$NA
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$NA	\$NA
Other (specify):	\$NA	\$NA
Total monthly expenses:	\$0.00	\$NA

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☒ Yes ☐ No If yes, describe on an attached sheet.

10. Have you spent — or will you be spending — any money for expenses or attorney fees in connection with this lawsuit? ☒ Yes ☐ No

If yes, how much? \$ 150.00

11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

I was retaliated against and separated from my employment with the State of IL for filing an Ethics Complaint with the OEIG, and a Civil Rights Complaint with IDOT. I was wrongfully denied unemployment benefits in 2014 after the IL Gov.'s Office failed to add me to payroll. I have been blacklisted. I applied for 50 positions with the CTA, and the CTA declined to hire me for allegedly having high blood pressure.

12. State the city and state of your legal residence.

Your daytime phone number: (217) 726-5269

Your age: 31 Your years of schooling: 18

Last four digits of your social-security number: 5460

QUESTIONS PRESENTED

1. What are the legal ramifications to the U.S. Department of Justice for creating a program to investigate the United States Federal government, and for engineering a person from birth to be an Informant for the Justice Department violating his constitutional rights?
2. Where shall Illinois Governor Bruce Rauner and Chicago Mayor Rahm Emanuel be tried for their acts of treason?
3. Will this court direct Hillary Clinton to submit to a DNA test to verify it was her hair found on the body of Vince Foster?
4. Where shall Dick Cheney and Donald Rumsfeld be tried for their invasion of a Iraq violation International law?

CORPORATE DISCLOSURE STATEMENT

Not Applicable.

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APPENDIX N - SANGAMON COUNTY SHERIFF'S OFFICE LETTER	
APPENDIX O-REQUEST FOR WRIT OF MANDAMUS DENIAL	

TABLE OF AUTHORITIES

AUTHORITY	TITLE
5 U.S.C. §522 (g)(1)(c)	
10 U.S.C. §920 (b)(2)	
18 U.S.C. §241	Conspiracy Against Rights
28 U.S.C. § 242	Deprivation of Rights Under Color of Law
28 U.S.C. §1291	Final Decisions of District Courts
42 U.S.C. § 1985 (3)	Conspiracy to Interfere with Civil Rights
Civil Rights Act of 1964 – Title II	Discrimination in public accommodations
Civil Rights Act of 1964 – Title III	Denial of access to public accommodations based on race
Civil Rights Act of 1964 – Title VI	Prohibition of Discrimination from recipients of Federal funds.
Civil Rights Act of 1964 – Title VII	Prohibition of employment discrimination based on race
Fed. R. App. P. 15	Review or Enforcement of an Agency Order
Fed. R. Civ. P. 4 (i)	Serving the United States and Its Agencies, Corporations, Officers, or Employees
Fed. R. Civ. P. 8 (b)(1)(B)	Defenses; Admissions and Denials
Fed. R. Civ. P. 8 (b)(5)	Defenses; Admissions and Denials - Lacking Knowledge or Information
Fed. R. Civ. P. 8 (b)(6)	Defenses; Admissions and Denials - Effect of Failing to Deny
Fed. R. Civ. P. 55 (a)	Entering a Default
Fed. R. Civ. P. 55 (b)(1)	Entering a Default Judgment - By the Clerk
Fed. R. Civ. P. 60 (a)	Corrections Based on Clerical Mistakes; Oversights and Omissions
Fed. R. Civ. P. 60 (b)(1)	Grounds for Relief from a Final Judgment, Order, or Proceeding
Fed. R. Civ. P. 60 (b)(3)	Grounds for Relief from a Final Judgment, Order, or Proceeding
Fed. R. Civ. P. 60 (d)(3)	Other Powers to Grant Relief
Fed. R. Civ. P. 81(c)(2)(a)	Removed Actions – Further Pleading
Fed. R. Civ. P. 81 (c)(2)(c)	Removed Actions – Further Pleading
U.S. Const. Amend. I	
U.S. Const. Amend. IV	
U.S. Const. Amend. V	

U.S. Const. Amend. VI	
U.S. Const. Amend. VII	
U.S. Const. Amend. VII	
U.S. Const. Amend. VIII	
U.S. Const. Amend. XIII	
820 ILCS 405	Unemployment Insurance Act
740 ILCS 23	Illinois Civil Rights Act of 2003
5 ILCS 430	State Officials and State Employees Ethics Act
720 ILCS 5/11-23.5	Revenge Porn
740 ILCS 174	The Whistleblower Protection Act
USA PATRIOT Act §501	
5 U.S.C. §552	The Privacy Act of 1974

PETITION FOR WRIT OF CERTIORARI

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

WILLIAM LEE GRANT II, Petitioner

v.

RICHARD ABEL KABAHER, STATE OF ILLINOIS, and
U.S. DEPARTMENT OF JUSTICE, Respondent

PETITION FOR WRIT OF CERTIORARI TO THE U.S. SUPREME COURT

Petitioner, WILLIAM LEE GRANT II (WLG), respectfully asks that a writ of certiorari be issued to review the Judgments and Orders of the Illinois Central District Court, filed on **September 6, 2016** (16-CV-3239), **September 21, 2016** (16-CV-3245), **October 12, 2016** (16-CV-3245).

OPINIONS BELOW

The Order of the Illinois Central District Judge ERIC I. LONG is attached as Appendix B. The Orders of Federal Judge COLIN S. BRUCE is attached as Appendix A, C, and D. Petitioner believes opinions are unpublished.

JURISDICTIONAL STATEMENT

The Illinois Central District Federal Court had original jurisdiction to hear the Complaints docketed as 16-CV-3132, 16-CV-3239, and 16-CV-3245 under the U.S. Constitution Article II § IV, and U.S. Constitution Article III § I, §II, and §III. This Appellate Court receives jurisdiction from the same articles and sections of the U.S. Constitution, as well as, 29 U.S.C. §1291.

The U.S. Supreme Court has jurisdiction over this matter pursuant to U.S. Constitution Article II §IV, U.S. Constitution Article III § I, §II, and §III. WILLIAM LEE GRANT II (WLG) has been blocked by Federal Judge Colin S. Bruce from filing an Appeal *in forma pauperis*, and seeks redress from damages from this court.

The U.S. Supreme Court has jurisdiction in this matter, through the DOJ and SOI not denying violating WLG's constitutional rights, retaliation for filing a Civil Rights Complaint and an Ethics Complaint with the SOI, and planting WLG in the government of the state of Illinois to become an Informant for the DOJ. KABAHER, SOI, and DOJ violated the Civil Rights Act of 1964, 42 USC §1985 (3), 28 U.S.C. §241 (Conspiracy Against Rights), and 18 U.S.C. §242 (Deprivation of Rights Under Color of Law), and several amendments of the U.S. Constitution. In the Complaint docketed in Illinois Central District as 16-CV-3245, the Defendants, RICHARD ABEL KABAHER, STATE OF ILLINOIS, and U.S. DEPARTMENT OF JUSTICE, did not dispute the allegations of Appellant, WILLIAM LEE GRANT II pursuant to Fed. R. Civ. P. 8(b)(6).

This Supreme Court has the power to reverse and correct the deficiencies of the lower court. The lower court dismissed WILLIAM LEE GRANT II's Complaint stating lack of *in*

personam jurisdiction. The Defendants were served using electronic mail and U.S. Postal Mail prior to the DOJ Removing the suit to Federal Court. The DOJ and SOI were served by the Sheriff's Office of Sangamon County, Illinois the day after the suit was removed to Federal Court.

Appellant's Notice of Appeal was filed on October 24, 2016. On November 9, 2016, Federal Judge Colin S. Bruce denied WILLIAM LEE GRANT II's Motion for Leave to Appeal *in forma pauperis*.

STATEMENT OF THE ISSUES

Some Illinois Democrats and Federal Prosecutors had WILLIAM LEE GRANT II (WLG) planted in the State of Illinois (SOI) government to become an Informant for the U.S. Department of Justice (DOJ). WLG was retaliated against for filing a Civil Rights Complaint and an Ethics Complaint in 2012 with the State of Illinois. Petitioner was employed by the Illinois Department of Public Health (2009), Illinois Governor's Office (2010), Illinois Lieutenant Governor's Office (2011), and the Illinois Department of Transportation (2012-2014). Petitioner was being laid off in 2014, and accepted employment with the Illinois Governor's Office. After accepting employment with the Illinois Governor's Office, Petitioner was told he could not be added to payroll, and could not return to the Illinois Department of Transportation. Petitioner was wrongfully denied Federal unemployment benefits from the Illinois Department of Employment Security in 2015. Finally, Petitioner found himself Blacklisted, and unable to find employment anywhere in America, and had no option but to seek assistance from the DOJ.

The DOJ created a program to investigate itself more than thirty years ago. This Program is a violation of WLG's Constitutional Rights. The DOJ and SOI have not denied WLG's allegations. The SOI and DOJ have hindered WLG's access to life, liberty, and the pursuit of happiness.

WLG's case (16-CV-3245) was dismissed in IL Central District Court for lack of *in personam* jurisdiction. 16-CV-3245 began in Illinois' Seventh Judicial Circuit as 2016-MR-000643. The DOJ and SOI were served with electronic copies of the Complaint, and through U.S. Postal Mail. 2016-MR-000643 was removed to IL Central District Court on September 1, 2016. The SOI and DOJ were served by the Sheriff's Office of Sangamon County, Illinois on September 2, 2016.

WLG applied for Default Judgement on September 7, 2016. The U.S. Clerk's Office declined to enter the Entry of Default. The U.S. Clerk's Office stated they had to be directed by a Judge to enter an Entry of Default.

The SOI and DOJ failed to plead pursuant to Fed. R. Civ. P. 81 (c)(2)(a) and (c)(2)(c). WLG detailed criminal activity for the DOJ and SOI in the Complaint docketed as 16-CV-3132. Federal Judge Colin S. Bruce directed WLG to state court, even though WLG's Complaint contained matters of Federal Jurisdiction. WLG filed a narrower suit in Illinois' Seventh Judicial Circuit, and the suit was removed to Federal Court by the DOJ.

As to Sovereign Immunity, the SOI waived its claim to Sovereign Immunity when it voluntarily appeared in Federal Court. A state's Sovereign Immunity is void when the state is in violation of Federal law.

WLG seeks \$30 Trillion in compensatory and punitive damages. The SOI and DOJ Defaulted in this matter by failure to plead pursuant to Fed. R. Civ. P. 81 (c)(2)(a) and Fed. R. Civ. P. 81 (c)(2)(c).

STATEMENT OF THE CASE

The U.S. Department of Justice created a Program to investigate the Federal government. This Program used WILLIAM LEE GRANT II as a pawn to be planted in the State of Illinois' government.

Some Illinois Democrats and Federal Prosecutors conspired to have WILLIAM LEE GRANT II (WLG) planted in the State of Illinois' government. WLG was an intern in the Illinois Department of Public Health (IDPH) and Office of the Governor (OOG). WLG went on to work for the campaign of Illinois Governor Pat Quinn in 2010, and began employment with the Office of Illinois Lieutenant Governor (LTG) Sheila Simon. After one year, WLG, went on to work for the Illinois Department of Transportation (IDOT) for three years.

WLG was threatened by a Supervisor at IDOT in 2012. WLG sought assistance from IDOT's Chief Council, Ellen Schanzle-Haskins. Ellen Schanzle-Haskins directed WLG to file a Civil Rights Complaint. WLG was directed by former U.S. Attorney, Rodger Heaton, and Assistant U.S. Attorney, Gregory K. Harris, to follow the instructions of Ellen Schanzle-Haskins. WLG was told to follow Ellen Schanzle-Haskins' instructions by the Director of the Illinois Department of Natural Resources. After WLG filed a Complaint in 2012, WLG experienced retaliation at IDOT including, the creation of a hostile work environment, work products being sabotaged, and a reduction in workload. The retaliation resulted in WLG receiving a geographic transfer to Chicago, Illinois. WLG was assigned a new Supervisor, RICHARD ABEL KABKER, a racist. Kabaker as a racist and in retaliation for filing a Civil Rights Complaint and an Ethics Complaint denied WLG a promotion, transferred WLG to IDOT's Bureau of Claims located in Schaumburg, Illinois for six weeks, gave WLG a workload below his pay grade, and created and

maintained a hostile work environment. KABAKER attempted to force WLG to forge documents, and to approve of his fraudulent billing practices.

Note: WLG, while on a Leave of Absence with IDOT, filed an Ethics Complaint against an employee of the LTG for making false statements to the Illinois General Assembly. The Office of Executive Inspector General declined to investigate, and referred the Complaint to the OOG and LTG.

WLG was being laid-off in 2014 under the guise of a material reorganization at IDOT. WLG was offered employment by OOG. WLG accepted employment with the OOG. One month later Appellant was informed he could not be added to payroll with OOG, and could not return to IDOT. WLG was later wrongfully denied unemployment benefits through the Illinois Department of Employment Security (IDES). WLG was unable to find employment anywhere in America, also known as “Blacklisted.”

WLG went to the Federal Bureau of Investigation (FBI) for assistance. The FBI stated the FBI may be willing to investigate WLG’s employment situation, if WLG agreed to assist the FBI investigate Illinois Governor Bruce Rauner. The FBI stated they would love to investigate Bruce Rauner, if they were provided with some assistance. The FBI gave WLG their business card, and directed him to the Department of Labor. The U.S. Department of Labor agreed to assist WLG with a portion of his case, but informed WLG he needed to find someone with some “bigger guns.” WLG suggested the U.S. Attorney’s Office. The U.S. Department of Labor said, “Yes. They have very nice guns there.” WLG went to go speak with AUSA, Gregory K. Harris. Mr. Harris said his office would only get involved in WLG’s Civil Rights case through a qui tam action. WLG later went to a friend employed by Illinois Speaker of the House, Michael J.

Madigan, and told his friend the FBI is willing to investigate Illinois Governor Bruce Rauner, if they receive some assistance.

WLG began an email chain between WLG, FBI, U.S. Attorney's Office. Illinois Attorney General's Office (Public Access Counselor), U.S. Department of Labor, and the Richard Abel Kabaker (IDOT-Deputy Chief Council). WLG offered to enter a Settlement Agreement with the State of Illinois for injuries incurred. The State of Illinois (SOI) did not respond after three days. WLG began sending emails to the Defendants (and others) containing his knowledge of fraud, waste, and abuse within IDOT. One of Speaker Madigan's attorneys soon joined the email chain.

The email chained grew to include WLG's knowledge of fraud, waste, and abuse within other agencies of the SOI. The email chain grew to include employees of other agencies of the SOI, members of both chambers of the Illinois General Assembly, and employees of investigative and law enforcement entities within the SOI and Illinois.

WLG recalled being informed of an investigation into Bruce Rauner for funding terrorism in Afghanistan for profit. WLG explained in emails how Rahm Emanuel hid memorandums related to National Security while working in the Clinton White House, and Bruce Rauner later assisted Rahm Emanuel in making \$14 million in three years upon leaving the Clinton White House. WLG supplied witnesses to the DOJ in the email chains.

WLG explained in emails why Hillary Clinton killed White House General Council, Vince Foster. WLG explained why Hillary Clinton sent Ambassador J. Christopher Stevens to Libya to die. WLG explained in emails how Cook County State's Attorney, Anita Alvarez, entered a conspiracy to "allow Chicago Cops to Shoot Black People for Sport Without Fear of Criminal Prosecution." WLG explained to the DOJ how the Koschman Case, where Chicago Mayor, Richard M. Daley's nephew, Richard J. Vanecko, killed a man on the sidewalk of

Chicago, and the Chicago Police immediately began a conspiracy to conceal Mr. Vanecko's involvement. Anita Alvarez lied to the victim's mother, the public, and did her best to prevent the Cook County State's Attorney's Office from investigating the death of David Koschman.

WLG filed a detailed Federal Civil Rights Complaint (16-CV-2132) in May 2016 detailing those who had violated WLG's Civil Rights. The Complaint contained information on the criminal activity of RICHARD ABEL KABAKER, Anita Alvarez, and Illinois Governor Bruce Rauner.

The case was assigned to Judge Sue Myerscough. WLG sent Judge Myerscough a note stating she could speak with Rodger Heaton, Ellen Schanzle-Haskins, or her own children if she needed confirmation of the Complaint being "true and correct," and not a work of figment or imagination. Judge Myerscough directed WLG to sign his Complaint, and then recused herself. Magistrate Judge Tom Schanzle-Haskins (husband to Ellen Schanzle-Haskins) recused himself. The matter was assigned to Federal Judge Colin S. Bruce in Urbana, Illinois. Judge Bruce in his order dismissing WLG's Complaint stated Plaintiff filed in the wrong court.

WLG filed a suit (2016-MR-000643) narrower in scope in the Illinois Seventh Judicial Circuit. The suit was filed on July 21, 2016. The Defendants, RICHARD ABEL KABAKER, STATE OF ILLINOIS, and U.S. DEPARTMENT OF JUSTICE were served according Illinois Rules Civil Procedures by electronic mail, and U.S. Postal Mail on July 21 and July 22, 2016. Defendant, RICHARD ABEL KABAKER, was additionally served by the Sheriff's Office of Cook County, Illinois. Illinois Governor Bruce Rauner and the U.S. Department of Justice (DOJ) were served by the Sheriff's Office of Sangamon County, Illinois on September 2, 2016.

The Complaint was docketed as 2016-MR-000643, and was assigned the WLG's neighbor (Judge Rudolph M. Braud). Judge Braud had enough knowledge of WLG to know he

had been retaliated against. Furthermore, as a private attorney, Judge Braud instructed WLG to never submit to a breathalyzer if stopped by Police.

Note: In 2009, WLG was stopped by the Illinois State Police, and refused to submit to a breathalyzer. Under the guise of a temporary (36 hours) law, Illinois State Police Trooper, Tyler Price, and Sangamon County Assistant State's Attorney, Joshua Morrison, pretended to have a warrant to draw WLG's blood. Thus, committing unlawful detainment and assault. The Blood Alcohol Content Report (BAC) appears to show WLG was below the legal limit, yet the Sangamon County State's Attorney's Office sought and filed to cases of Driving Under the Influence (DUI) against WLG from one traffic stop. The Sangamon County State's Attorney's Office conspired with WLG's attorneys to undermine his defense, and have him prosecuted for DUI.

The Complaint (2016-MR-000643) was filed for more than five weeks before the DOJ filed a Notice of Removal. The DOJ filed a Notice of Removal of September 1, 2016. WLG filed for an Entry of Default, Motion of Default, and Default Judgment with a supporting affidavit on September 7, 2016. The Springfield, IL U.S. Clerk's Office stated they could not enter an Entry of Default without being directed by a Judge to do so.

On September 16, 2016, the DOJ and SOI filed Motions to Dismiss and Memorandums of Law. Federal Magistrate Eric I. Long denied Appellant's Motion for Entry of Default. Judge Long's Order references that the Clerk's Office is required to enter the Default. The Clerk's Office previously declined to enter the Default. The Affidavit submitted by WLG to support the Entry of Default, Motion for Default Judgment, and Default Judgment affirmed the Defendants

were all served by U.S. Postal Mail, electronic mail, and by Sheriffs. Judge Long also referenced Sovereign Immunity.

On October 6, 2016, WLG submitted a new affidavit with receipt and certified mail receipts of WLG's service upon Defendants. On October 12, 2016, Judge Bruce dismissed Appellant's suit for alleged lack of *in personam* jurisdiction, and Sovereign Immunity. The Defendants have denied no portion of WLG's allegations. The Defendants failure to deny WLG's allegations is equivalent to the Defendants admitting the allegations are true.

WLG has been denied access to Appeal in the Seventh Circuit of Federal Appeals, and asks this Supreme Court of the United States to review the record of the matter docketed as 16-CV-3245, and award Petitioner is requested compensatory and punitive damages in the amount of \$30 Trillion.

REASONS FOR GRANTING THE PETITION

1. The Justices of the United States Supreme Court have taken an oath to uphold and defend the Constitution of the United States, which the State of Illinois and U.S. Department of Justice have violated.
2. Petitioner has been blocked from filing an Appeal in the Seventh Circuit of Appeals.
3. The State of Illinois and U.S. Department of Justice have not denied the allegations of Petitioner, thereby admitting their criminal activity.
4. The State of Illinois and U.S. Department of Justice defaulted in the matter docketed as 16-CV-3245 pursuant to Fed. R. Civ. P. 81.
5. The U.S. Clerk's Office of Springfield, Illinois failed to Enter an Entry of Default under the guise of a lie.
6. The Defendants were properly served, failed to plead in this matter, and Petitioner is damaged until made whole.
7. Donald J. Trump does not wish to be President, but ran to make a mockery of the Republican Party, and to keep Hillary Clinton from winning the Presidency.
8. We are on a deadline.

The message is: Democrats are United and Organized. Unions are United and Organized.

CERTIFICATE OF SERVICE

UNITED STATES SUPREME COURT
DISTRICT OF COLUMBIA

William Lee Grant II

Plaintiff,

VS.

Richard Abel Kabaker, State of Illinois,
U.S. Department of Justice

Defendant,

District No. 16-CV-3245
Fed. Appel Case No. 16-3748

CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2016, I submitted PETITION FOR WRIT OF CERTIORARI to the following:

Richard Abel Kabaker Illinois Department of Transportation 69 W. Washington Street, Chicago, Illinois 60601 rick.kabaker@illinois.gov	Karen McNaught Illinois Attorney General's Office 500 S. Second Street Springfield, IL 62702 kmcnaught@atg.state.il.us
David Hoff U.S. Department of Justice 201 South Vince Street, Suite 226 Urbana, Illinois 61802 david.hoff@usdoj.gov	Peter G. Paoli U.S. Department of Justice 201 South Vince Street, Suite 226 Urbana, Illinois 61802 peter.g.paoli@usdoj.gov
Soni Holmes U.S. Department of Justice 201 South Vince Street, Suite 226 Urbana, Illinois 61802 soni.holmes@usdoj.gov	Staci Klayer U.S. Department of Justice 201 South Vince Street, Suite 226 Urbana, Illinois 61802 staci.klayer@usdoj.gov

Illinois Attorney General's Office bchesnut@atg.state.il.us; bjohnson@atg.state.il.us; bmyers@atg.state.il.us; kturnbull@atg.state.il.us; kwerth@atg.state.il.us; mabecker@atg.state.il.us	Gregory K. Harris U.S. Department of Justice 318 South Sixth Street Springfield, Illinois 62702 gregory.harris@usdoj.go
U.S. Department of Justice caseview.ecf@usdoj.gov	Gail Noll U.S. Department of Justice 318 South Sixth Street Springfield, Illinois 62702 gail.noll@usdoj.gov
United States Court of Appeals for the Seventh Circuit 219 S. Dearborn Street Room 2722, Chicago, Illinois 60604 andy_kohn@ca7.uscourts.gov USCA7_Clerk@ca7.uscourts.gov, CA07_CMECFMail@ca7.uscourts.gov	Nadine Wichern Illinois Attorney General's Office 500 South Second Street Springfield, IL 62702 nwichern@atg.state.il.us
Solicitor General of the United States Room 5614 Department of Justice 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530-0001 SupremeCtBriefs@usdoj.gov	Clerk of the Court Supreme Court of the United States Washington, D.C. 20543 meritbriefs@supremecourt.gov

Submitted,

s/ WILLIAM LEE GRANT II
 William Lee Grant II

William Lee Grant II
 901 Wythe Road
 Springfield, IL 62702
 (217) 726-5269
 wgran2@gmail.com

APPENDIX

APPENDIX A

WILLIAM LEE GRANT, II,)	
)	
Plaintiff,)	
v.)	Case No. 16-CV-3132
)	
RICHARD ABEL KABAKER, et al.,)	
)	
Defendants.)	

On May 12, 2016, Plaintiff, William Lee Grant, II, filed a 36-page *pro se* Civil Rights Complaint (#1) in the Central District of Illinois, Springfield Division. Plaintiff also filed a Motion for Leave to Proceed *in forma pauperis* (#2).

In his *pro se* Complaint, Plaintiff has named forty Defendants, including Loretta Lynch, the Attorney General of the United States, Bruce Rauner, the Governor of Illinois, and Kasim Reed, the Mayor of Atlanta, Georgia. Plaintiff has also named numerous other government officials as Defendants as well as numerous private companies and individuals. The list of Defendants includes a doctor, two judges and an administrative law judge.

The Court realizes that the plaintiff believes he has many grounds and incidents about which he desires to complain or seek some sort of relief. Unfortunately, the plaintiff has brought his complaints in the wrong court, and tried to bring them all at

one time, instead of parsing the potentially meritorious claims into separate state claims.

An indigent plaintiff in a civil rights action may apply to proceed without prepayment of fees under 28 U.S.C. § 1915(a). See *Hyre v. Univ. of Ill.*, 17 F. Supp. 2d 813, 814 (C.D. Ill. 1998). However, district courts have an obligation under 28 U.S.C. § 1915(e)(2)(B) to screen complaints before service on the defendants. *Suess v. Obama*, 2014 WL 293817, at *1 (N.D. Ind. 2014). The plaintiff's *pro se* complaint must be dismissed "if it is legally frivolous, malicious, fails to state a claim upon which relief may be granted or asks for money damages from a defendant who by law cannot be sued for money damages." *Millen v. Wis. State Journal*, 2009 WL 2983046, at *1 (W.D. Wis. 2009); see also *Suess*, 2014 WL 293817, at *1; *Hofelich v. United States*, 2006 WL 3841812, at *2 (S.D. Ill. 2006); *Hyre*, 17 F. Supp. 2d at 814.

An action is frivolous if it "lacks an arguable basis either in law or in fact." See *Denton v. Hernandez*, 504 U.S. 25, 31 (1992), quoting *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). A claim is also frivolous when no reasonable person could suppose it to have any merit. *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000); *Hofelich*, 2006 WL 3841812, at *2.

Under Rule 8(a)(2) of the Federal Rules of Civil Procedure, a complaint must include "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Plaintiff's *pro se* Complaint does not comply with this rule. See *Millen*, 2009 WL 2983046, at *1.

Plaintiff has included numerous, unrelated claims spanning a time period of about fourteen years. Some of the claims are clearly time-barred and others, such as those against the two judges, are barred by absolute immunity. *See Snyder v. Nolen*, 380 F.3d 279, 285-86 (7th Cir. 2004).

This court recognizes that it must construe *pro se* complaints liberally. *Ciarpaglini v. Saini*, 352 F.3d 328, 330 (7th Cir. 2003); *Hofelich*, 2006 WL 3841812, at *2. After careful consideration, this court concludes that Plaintiff's *pro se* Complaint is frivolous and fails to state a claim on which relief may be granted. Plaintiff is claiming that all of the many named, mostly unrelated Defendants took actions against him over a lengthy period of time. *See Hofelich*, 2006 WL 3841812, at *2. This court therefore finds that the Complaint rises to the level of the "irrational" and "wholly incredible." *See id.*; *see also Suess*, 2014 WL 293817, at *2. Accordingly, this court must dismiss this case under 28 U.S.C. § 1915(e)(2)(B) and deny Plaintiff's motion to proceed in forma pauperis. *See Hyre*, 17 F. Supp. 2d at 815; *see also Hofelich*, 2006 WL 3841812, at *2-3.

IT IS THEREFORE ORDERED THAT:

- (1) Plaintiff's Motion for Leave to Proceed *in Forma Pauperis* (#2) is DENIED.
- (2) Plaintiff's *pro se* Complaint (#1) is dismissed under 28 U.S.C. § 1915(e)(2)(B).
- (3) The Motion to Dismiss (#6) filed by Defendant, John W. Harris, is MOOT.
- (4) This case is terminated.

ENTERED this 20th day of June, 2016.

s/COLIN S. BRUCE
U.S. DISTRICT JUDGE

APPENDIX B

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
Urbana Division**

WILLIAM LEE GRANT II,

Plaintiff,

v.

Case No. 16-3245

**RICHARD ABEL KABAHER,
STATE OF ILLINOIS, UNITED STATES
DEPARTMENT OF JUSTICE,**

Defendants.

ORDER

This case is before the Court on Plaintiff William Lee Grant II's ("Plaintiff") Motion for Entry of Default (#2) and Motion for Default Judgment (#3). Defendant the United States Department of Justice filed a Response to Plaintiff's Motions (#7). Defendant's Kabaker and the State of Illinois did not specifically respond to Plaintiff's Default Motions, but did file a Motion to Dismiss for Failure to State a Claim (#14). For the reasons set out below, Plaintiff's Motion for Entry of Default (#2) and Motion for Entry of Default Judgment (#3) are DENIED.

I. Background

Plaintiff filed a multi-count Complaint against Defendants in the Circuit Court of the Seventh Judicial Circuit, Sangamon County, Illinois. It appears from the Affidavit attached to Plaintiff's Motion for Entry of Default that Plaintiff attempted service on Defendant the United States Department of Justice on September 2, 2016. Plaintiff's Affidavit also shows that service was attempted on Defendant the State of Illinois on the same date. Finally, Plaintiff's Affidavit indicates that Defendant Kabaker was personally served on August 23, 2016.

On September 1, 2016, one day before Plaintiff attempted to serve Defendants the United States Department of Justice and the State of Illinois with summons, Defendant the United States Department of Justice filed a Notice of Removal (#1) and removed this case to federal court. Seven days later on September 8, 2016, Plaintiff filed his Motion for Entry of Default (#2) and Motion for Default Judgment (#3). On September 16, 2016, Defendant the United States

Department of Justice filed a Response to Plaintiff's Motions (#7) as well as a Motion to Dismiss for Lack of Jurisdiction and Insufficient Service (#5), a Motion to Dismiss (#8) and a Motion to Strike Plaintiff's Motion for Summary Judgment (#11). Defendants the State of Illinois and Kabaker filed a Motion to Dismiss for Failure to State a Claim (#14) on the same date. The Court will address the Motion for Entry of Default and Motion for Default Judgment as it pertains to each specific Defendant.

II. Analysis

a. The United States Department of Justice

Plaintiff's Motion asserts that, pursuant to Fed. R. Civ. P. 81(c)(2)(a), Defendant was required to file an answer or otherwise plead no later than September 8, 2016. Before the Court determines Defendant's time limit for responding, Plaintiff's Motion for Entry of Default must first meet the requirements of Fed. R. Civ. P. 55. According to Rule 55(a), if a party against whom judgment is sought fails to plead or defend, "and that failure is shown by affidavit or otherwise" the clerk is required to enter that party's default. (emphasis added). Thus, to satisfy Rule 55(a), "the plaintiff first must submit a sworn statement that verifies . . . that the defendant was served properly . . . with the summons and complaint." *Laporte Cmty. Fed. Credit Union v. Wisenbaugh*, 2012 Bankr. LEXIS 6203, *4 (N.D. Ind. 2012).

Plaintiff's Affidavit, attached to his Motion, indicates that Defendant was served with summons on September 2, 2016. Defendant the United States Department of Justice is an agency of the United States Government. Thus, service of process must be affected pursuant to Fed. R. Civ. P. 4(i)(1). Pursuant to Rule 41(i)(1)(A), Plaintiff was required to serve a copy of the summons and Complaint to the United States Attorney for the district where the action is brought. It appears Plaintiff has completed this step. Rule 41(i)(1)(B), however, also requires Plaintiff to mail a copy of the summons and Complaint, by registered or certified mail, to the Attorney General of the United States in Washington, D.C. There is no indication in Plaintiff's Affidavit that he complied with the mandates of Rule 41(i)(1)(B).

Because Plaintiff's Rule 55(a) Affidavit fails to show proper service as required by Rule 41, Plaintiff has not shown that Defendant has failed to plead and the clerk is not required to enter Defendant's default. Additionally, Rule 55(d) states that the Court may only enter default judgment against the United States if Plaintiff establishes a claim to relief by evidence that satisfies the Court. Because Plaintiff has failed to show proper service required by Rule 4, there

is insufficient evidence to satisfy the Court that Plaintiff is entitled to the relief sought at this time.

b. The State of Illinois

As already noted, Plaintiff is required by Rule 55(a) to show by affidavit or otherwise that Defendant was properly served before default can be entered. Plaintiff's affidavit states that Defendant was served on September 2, 2016. The State of Illinois, however, is immune from suit pursuant to the Eleventh Amendment. U.S. Const. Amend. XI. Plaintiff's Affidavit indicates that summons was served upon "Megan" who apparently works in the office of Governor Bruce Rauner, who is not a party to this action. The Court cannot conclude that leaving a summons with a staff member for an elected official who is not party to this action is sufficient to serve process on an entity that is immune from suit under the Eleventh Amendment. Thus, Plaintiff's Affidavit as to the State of Illinois is also insufficient under Rule 55(a).

c. Richard Kabaker

Plaintiff's Affidavit indicates that Richard Kabaker was served with summons on August 23, 2016. Pursuant to Rule 81(c)(2)(B), Defendant Kabaker had until September 13, 2016 to file an answer or otherwise plead. On September 16, 2016, 3 days after the deadline, Defendant filed a Motion to Dismiss (#14). "District court judges are well aware that defaults should be entered only when absolutely necessary." *United States v. Di Mucci*, 879 F.2d 1488, 1493 (7th Cir. 1989). "In determining whether to enter a default judgment, the court may consider a number of factors including whether there is a material issue of fact, whether the default is largely technical, whether the plaintiffs were substantially prejudiced, and how harsh an effect a default judgment might have." *Wolf Lake Terminals, Inc. v. Mut. Marine Ins. Co.*, 433 F. Supp. 2d 933, 941 (N.D. Ind. 2005).

As noted, default is a drastic sanction that should only be entered when absolutely necessary. Plaintiff has not shown that Defendant's filing of a responsive pleading three days after the deadline set forth in Rule 81 is the type of drastic situation where the Court should exercise its discretion to enter a default against Defendant. As noted by the *Wolf Lake Terminals, Inc.* court, Defendant's three day tardiness in filing his pleading is "largely technical." Moreover, Plaintiff is in no way prejudiced by Defendant's three day delay in filing his response. Finally, granting Plaintiff's Motion in this case would have an extraordinarily harsh effect on Defendant as Plaintiff is requesting "\$16.384 Sextillion." Thus, all the factors set out in *Wolf Lake*

Terminals, Inc. also favor the Court exercising its discretion to refuse to enter a default against Defendant Kabaker.

III. Conclusion

For these reasons, Plaintiff's Motion for Entry of Default (#2) is DENIED. Accordingly, because there has been no entry of default, Plaintiff's Motion for Entry of Default Judgment (#3) is DENIED as moot.

ENTERED this 21st day of September, 2016.

s/ERIC I. LONG
UNITED STATES MAGISTRATE JUDGE

APPENDIX C

E-FILED
Tuesday, 06 September, 2016 01:11:49 PM
Clerk, U.S. District Court, ILCD

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION

WILLIAM LEE GRANT, II,)	
)	
Plaintiff,)	
v.)	Case No. 16-CV-3239
)	
RICHARD ABEL KABAKER, et al.,)	
)	
Defendants.)	

ORDER

On August 25, 2016, Plaintiff, William Lee Grant, II, filed a 41-page *pro se* Civil Rights Complaint (#1) in the Central District of Illinois, Springfield Division. Plaintiff also filed a Motion for Leave to Proceed *in forma pauperis* (#2).

On August 31, 2016, the case was assigned to this court.

In his *pro se* Complaint, Plaintiff has named five Defendants, including Loretta Lynch, the Attorney General of the United States, Bruce Rauner, the Governor of Illinois, and Richard Abel Kabaker, Deputy Chief Council of the Illinois Department of Labor, the State of Illinois, and the United States Department of Justice.

Plaintiff has included allegations regarding incidents which occurred from 2010 to 2016, but then also incorporates by reference many claims he made in a case in Illinois state court, going back years. Plaintiff claims that Illinois Democrats and federal prosecutors attempted to infiltrate him into Governor Rauner's administration to provide evidence of corruption, waste, and fraud. Plaintiff claims he began working for Illinois Democrats and the Department of Transportation in 2010. He became part of Governor Quinn's re-election team. After he was eventually wrongly terminated and

denied benefits by Illinois government, he approached the FBI who said they would look into his case as long as he provided assistance in investigating Governor Rauner. The FBI directed him to the U.S Department of Labor. Plaintiff claims there are more than 3,000 emails discussing fraud, waste, and abuse in Illinois government between himself, the FBI, U.S. Attorney's Office, Illinois Attorney General's Office, and Speaker Madigan's office. Plaintiff also makes reference to multiple other claims in his state court proceeding going back years in relation to Illinois government, which include such allegations as Gov. Rauner supporting terrorist elements in Afghanistan and paying Rahm Emanuel to allow the 9/11 attacks to happen. Plaintiff also alleges claims against Cook County State's Attorney Anita Alvarez, in that she permits the Chicago Police Department to shoot black males "for sport." Plaintiff also claims he was illegally thrown into a psych ward. Plaintiff is seeking \$30 trillion in damages and for his criminal record to be expunged.

An indigent plaintiff in a civil rights action may apply to proceed without prepayment of fees under 28 U.S.C. § 1915(a). See *Hyre v. Univ. of Ill.*, 17 F. Supp. 2d 813, 814 (C.D. Ill. 1998). However, district courts have an obligation under 28 U.S.C. § 1915(e)(2)(B) to screen complaints before service on the defendants. *Suess v. Obama*, 2014 WL 293817, at *1 (N.D. Ind. 2014). The plaintiff's *pro se* complaint must be dismissed "if it is legally frivolous, malicious, fails to state a claim upon which relief may be granted or asks for money damages from a defendant who by law cannot be sued for money damages." *Millen v. Wis. State Journal*, 2009 WL 2983046, at *1 (W.D. Wis. 2009); see also *Suess*, 2014 WL 293817, at *1; *Hofelich v. United States*, 2006 WL 3841812, at *2 (S.D. Ill. 2006); *Hyre*, 17 F. Supp. 2d at 814.

An action is frivolous if it “lacks an arguable basis either in law or in fact.” See *Denton v. Hernandez*, 504 U.S. 25, 31 (1992), quoting *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). A claim is also frivolous when no reasonable person could suppose it to have any merit. *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000); *Hofelich*, 2006 WL 3841812, at *2.

Under Rule 8(a)(2) of the Federal Rules of Civil Procedure, a complaint must include “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Plaintiff’s *pro se* Complaint does not comply with this rule. See *Millen*, 2009 WL 2983046, at *1.

Plaintiff has included numerous, unrelated claims spanning a time period of at least six years. Some of the claims are clearly time-barred. This court recognizes that it must construe *pro se* complaints liberally. *Ciarpaglini v. Saini*, 352 F.3d 328, 330 (7th Cir. 2003); *Hofelich*, 2006 WL 3841812, at *2.

After careful consideration, this court concludes that Plaintiff’s *pro se* Complaint fails to state a claim on which relief may be granted. Plaintiff is claiming that all of the many named, mostly unrelated Defendants took actions against him over a lengthy period of time. See *Hofelich*, 2006 WL 3841812, at *2. This court therefore finds that the Complaint rises to the level of the “irrational” and “wholly incredible.” See *id.*; see also *Suess*, 2014 WL 293817, at *2. Accordingly, this court must dismiss this case under 28 U.S.C. § 1915(e)(2)(B) and deny Plaintiff’s motion to proceed in forma pauperis. See *Hyre*, 17 F. Supp. 2d at 815; see also *Hofelich*, 2006 WL 3841812, at *2-3.

IT IS THEREFORE ORDERED THAT:

(1) Plaintiff’s Motion for Leave to Proceed in *Forma Pauperis* (#2) is DENIED.

(2) Plaintiff's *pro se* Complaint (#1) is dismissed under 28 U.S.C. § 1915(e)(2)(B).

(3) This case is terminated.

ENTERED this 6th day of September, 2016.

s/ COLIN S. BRUCE
U.S. DISTRICT JUDGE

APPENDIX D

45

Discrimination and Retaliation (Whistleblower) Complaint[.]” alleges that Plaintiff was terminated from his job with the State of Illinois after filing a civil rights complaint.

Plaintiff claims that Defendant Kabaker “discriminated against me on the basis of my race.” Plaintiff claims that “[t]he State of Illinois, its employees, and quasi-governmental entities conspired against me to retaliate against me for filing two [c]omplaints to separate me from my employment with the State of Illinois.” As for the United States Department of Justice, Plaintiff claims that:

The U.S. Federal government knew I would be retaliated against and “[b]lacklisted” for filing an Ethics and a Civil Rights Complaint, and I would have no choice but to request assistance from the U.S. Department of Justice. The U.S. Department used me as an Informant. Furthermore, the U.S. Federal government deprived me of my right to life and liberty. The U.S. Federal government has not assisted me in gaining remedy to my injuries, until I have provided them with information to investigate and prosecute “People of Interest” to the U.S. Attorney’s Office.

The rest of the complaint contains superfluous language unrelated to the identified claims or named Defendants.

At the conclusion of the complaint, Plaintiff prayed for damages for bodily harm, emotional harm, pain and suffering, loss of income, loss of enjoyment of life, property damage, and for waiving his right to join or create a class action lawsuit. The total amount sought by Plaintiff is \$30 trillion. Defendants have all filed motions to dismiss. Plaintiff filed a late response, which this court has considered. Defendants’ motions, therefore, are fully briefed and ready to be ruled on.

ANALYSIS

A motion to dismiss serves to test the sufficiency of the complaint, not to decide the merits of the case. See *AnchorBank, FSB v. Hofer*, 649 F.3d 610, 614 (7th Cir. 2011). Therefore, when ruling on a motion to dismiss, a court must accept, as true, all factual allegations contained within the complaint. See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). To survive a motion to dismiss, the complaint need only contain sufficient factual allegations to “state a claim to relief that is plausible on its face.” *Iqbal*, 556 U.S. at 678 (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

To meet this standard, the allegations in the complaint must: (1) be detailed enough to “give the defendant ‘fair notice of what the claim is and the grounds upon which it rests[.]’” and (2) “plausibly suggest that the plaintiff has a right to relief, raising that possibility above a ‘speculative level.’” *E.E.O.C. v. Concentra Health Servs., Inc.*, 496 F.3d 773, 776 (7th Cir. 2007) (quoting *Twombly*, 550 U.S. at 554, 555) (alteration omitted). Importantly, a plaintiff’s obligation to provide the grounds for his entitlement to relief requires more than labels and conclusions, and a formulaic recitation of a cause of action elements will not do. *Twombly*, 550 U.S. at 545.

Here, Defendants argue that Plaintiff’s complaint should be dismissed for various reasons. This court will address the arguments related to each Defendant in turn.

Richard Abel Kabaker

Defendant Kabaker argues that Plaintiff has failed to state a claim against him upon which relief may be granted. The complaint states that Kabaker is employed as an

Attorney/Deputy Chief Council with the Illinois Department of Transportation. With respect to Plaintiff's claim against Kabaker, Plaintiff stated:

Rick Kabaker harassed, discriminated, and retaliated against me for more than two and one half years at the Illinois Department of Transportation (IDOT) based on my race, and for filing a Civil Rights Complaint and an Ethics Complaint with the State of Illinois.

Kabaker argues that Plaintiff's allegations against him are conclusory and fail to state a claim to relief which is plausible on its face. After a thorough review of the complaint, this court agrees. Plaintiff has failed to provide sufficient allegations necessary to give Kabaker fair notice of Plaintiff's claim and the grounds upon which it rests. See *Olson v. Champaign Cnty.*, 784 F.3d 1093, 1098. For instance, Plaintiff has failed to state how Kabaker harassed, discriminated, and retaliated against him. Further, Plaintiff has failed to allege that Kabaker, an attorney with the Illinois Department of Transportation, was responsible for Plaintiff's termination or any other adverse employment action. In fact, Plaintiff has not alleged that Kabaker had any authority over Plaintiff or his job.

The court finds that the complaint fails to raise a reasonable expectation that discovery would yield evidence that Plaintiff suffered a loss as a result of Kabaker's actions. See *Pierce v. Zoetis, Inc.*, 818 F.3d 274, 280 (7th Cir. 2016); *Twombly*, 550 U.S. at 556. Therefore, the court must agree with Kabaker that the complaint is devoid of any allegations which would raise Plaintiff's right to relief above a speculative level. See *Tamayo v. Blagojevich*, 526 F.3d 1074, 1083 (7th Cir. 2008). As such, Kabaker is dismissed from the action. See Fed. R. Civ. P. 12(b)(6).

State of Illinois

Defendant State of Illinois (Illinois) argues that the Eleventh Amendment bars Plaintiff's federal claims and that the Illinois State Lawsuit Immunity Act shields the state from Plaintiff's claim under the Illinois Whistleblower Protection Act. The court agrees with Illinois on both points.

Eleventh Amendment issues arise whenever a private party, such as Plaintiff in the instant case, files a federal lawsuit against a state. See *Kroll v. Board of Trustees of University of Illinois*, 934 F.2d 904, 907 (7th Cir. 1991). The Eleventh Amendment provides that "[t]he Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State." U.S. Const. amend. XI. The United States Supreme Court has held that, despite its express terms, the Eleventh Amendment also "bars a citizen from bringing suit against the citizen's own State in federal court." *Welch v. Texas Dept. of Highways and Public Transportation*, 483 U.S. 468, 472 (1987).

Although difficult to overcome, Eleventh Amendment immunity is not absolute. *MCI Telecommunications Corp. v. Illinois Bell Telephone Co.*, 222 F.3d 323, 337 (7th Cir. 2000). There are three exceptions: (1) a state can consent to a suit; (2) Congress, acting under its constitutional authority, may abrogate immunity in the drafting of a federal law; and (3) private parties can sue individual state officials for prospective relief to enjoin ongoing violations of federal law. *Id.*

In this case, Plaintiff's federal claims appear to arise under 42 U.S.C. § 1983. Importantly, Illinois has not waived its sovereign immunity to actions brought under

that section. See *Thomas v. Walton*, 461 F.Supp.2d 786, 799 (S.D.Ill. 2006). Further, Congress has not abrogated the states' immunity to actions brought pursuant to Section 1983. *Quern v. Jordan*, 440 U.S. 332, 342 (1979). Therefore, because Plaintiff brings this suit against the State of Illinois the court must conclude that the claims are barred by the Eleventh Amendment.

With respect to Plaintiff's potential claim under the Illinois Whistleblower Protection Act (Act), the court agrees with Illinois that it is entitled to sovereign immunity pursuant to the State Lawsuit Immunity Act. See 745 ILCS 5/1 *et seq.* The State Lawsuit Immunity Act states that "the State of Illinois shall not be made a defendant or party in any court." 745 ILCS 5/1. Although it is true that Illinois can consent to be sued, the Illinois Supreme Court has stated that the consent must be "clear and unequivocal." *In re Walker*, 546 N.E.2d 520, 522 (1989). At this time, Illinois has yet to unequivocally waive its sovereign immunity for actions brought under the Act. See *Harris v. Illinois*, 753 F.Supp.2d 734, 742 (N.D.Ill. 2010). Therefore, the court must conclude that Plaintiff is barred from bringing a claim under the Act against the State of Illinois.

For all of the reasons stated above, the claims brought against Defendant State of Illinois are dismissed.²

²Although Plaintiff's jurisdictional statement provides a laundry list of state and federal authority, Plaintiff's federal claims appear to arise primarily under § 1983 and his state claims under the Illinois Whistleblower Protection Act. To the extent that Plaintiff's claims arise under other federal or state authority not discussed in this section, the court finds that those claims are barred for similar reasons as those stated herein. Those claims would also be dismissed under Federal Rule of Civil Procedure 12(b)(6).

United States Department of Justice

Defendant United States Department of Justice (DOJ) argues that Plaintiff's complaint should be dismissed for numerous reasons. Although this court agrees with most of the arguments presented, the court will only address dismissal for insufficient service and lack of *in personam* personal jurisdiction.³

After a case is removed to federal court, the Federal Rules of Civil Procedure govern the mode of proceeding. See Fed.R.Civ.P. 81(c)(1); *Franny Goose Foods, Inc. v. Brotherhood of Teamsters and Auto Truck Drivers Local No. 70 of Alameda County*, 415 U.S. 423, 438 (1974). Federal Rule of Civil Procedure 4 lists the requirements for proper service of process. In order to properly serve the United States and its agencies, corporation, officers, or employees, a plaintiff is required to serve summons and the complaint on the United States Attorney for the district where the action is brought and to send a copy of the summons and complaint to the Attorney General of the United States at Washington, D.C. Fed. R. Civ. P. 4(i)(1).

Here, it appears that Plaintiff has properly served the United States Attorney for the Central District of Illinois. However, there is no indication that Plaintiff has mailed a copy of the summons and the complaint to the Attorney General of the United States in Washington, D.C. See Fed. R. Civ. P. 12(l)(1) ("[u]nless service is waived, proof of service must be made to the court"). Plaintiff's failure to comply with the rule is inexcusable due to the clear mandate contained in Rule 4(i)(1) and the fact that Plaintiff

³Because the court does not have jurisdiction over DOJ, it need not address DOJ's other arguments for dismissal. However, the court notes, with proper jurisdiction, it would have found dismissal appropriate for all of the reasons stated in DOJ's brief (#9).

has been aware of this deficiency since at least September 16, 2016, when DOJ filed their first Rule 12 motion. Plaintiff was again reminded of this requirement on September 21, 2016 in Magistrate Judge Eric I. Long's order. However, despite the mandate and the reminders, Plaintiff has yet to indicate whether he has fully complied with Rule 4(i)(1). For this reason, the court must conclude that service on DOJ is improper.

Without proper service, this court lacks *in personam* jurisdiction over DOJ. See *United States v. Lingas*, 549 F.3d 497, 500 (7th Cir. 2008) ("[a] district court may not exercise personal jurisdiction over a defendant unless the defendant has been properly served with process"). Therefore, the case cannot proceed against DOJ at this time.

For all of the reasons stated above, Defendant DOJ is dismissed from the lawsuit for lack of *in personam* jurisdiction and for insufficient service of process pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(5).

IT IS THEREFORE ORDERED THAT:

- (1) Defendants' Motions to Dismiss (#5), (#8), and (#14) are GRANTED.
- (2) Defendants Richard Kabaker, the State of Illinois, and the United States Department of Justice are hereby dismissed as defendants in this action.
- (3) This case is terminated. All other pending motions are DENIED as moot.

ENTERED this 12th day of October, 2016.

s/COLIN S. BRUCE
U.S. DISTRICT JUDGE

APPENDIX E



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505

June 17, 2016

Mr. William L. Grant, II
901 Wythe Road
Springfield, IL 62702

Re: OSC File No. DI-16-4150

Dear Mr. Grant:

The Office of Special Counsel has completed its review of the information you referred to the Disclosure Unit. You alleged a violation of law, rule, or regulation; gross mismanagement; a gross waste of funds, a substantial and specific danger to public health and safety; and an abuse of authority by employees at the U.S. Department of Justice (DOJ), Federal Bureau of Investigation; U.S. Department of Labor (DOL); U.S. Department of Homeland Security (DHS); and U.S. Department of Defense (DOD).

The Special Counsel is authorized to receive disclosures from an employee, former employee, or applicant for employment of the federal government concerning a federal agency. 5 U.S.C. § 1213(a)(1). As we discussed, because you are not an employee of the federal government as defined by 5 U.S.C. § 2105, and the information does not relate to prior federal employment or as an applicant for federal employment, the Office of Special Counsel does not have jurisdiction over the above matter. Therefore, we cannot take any further action concerning your disclosure.

Should you wish to pursue this matter further, you may contact the DOJ, Office of Inspector General (OIG), 950 Pennsylvania Avenue, N.W., Suite 4322, Washington, D.C. 20530; main telephone number: (202) 514-3435; hotline number: (800) 869-4499; hotline e-mail: oig_hotline@usdoj.gov; Civil Rights and Civil Liberties e-mail: inspector.general@usdoj.gov.

You may also contact the DOL, OIG, 200 Constitution Avenue, N.W., Room S-5502, Washington, D.C. 20210; main telephone number: (202) 693-5100; hotline number: (800) 347-3756 or (202) 693-6999; hotline e-mail: hotline@oig.dol.gov.

Finally, you may contact the DHS, OIG, 245 Murray Lane S.W., Building 410, Washington, D.C. 20528; main telephone number: (202) 254-4100; hotline number: (800) 323-8603; hotline e-mail: dhsoighotline@dhs.gov.

William L. Grant, II
Page 2

Accordingly, we are closing our file. Should you wish to discuss this matter, please contact me, at (202) 254-3604.

Sincerely,



Catherine A. McMullen
Chief, Disclosure Unit

CAM:ce

APPENDIX F



OFFICE OF EXECUTIVE INSPECTOR GENERAL
FOR THE AGENCIES OF THE ILLINOIS GOVERNOR

69 WEST WASHINGTON STREET, SUITE 3400
CHICAGO, ILLINOIS 60602
(312) 814-5600

June 13, 2016

William Grant
901 Wythe Rd.
Springfield, IL 62702

Re: OEIG Complaint #16-01087, 16-01096

Dear Mr. Grant,

The Office of Executive Inspector General for the Agencies of the Illinois Governor received your **June 6, 2016** letter/complaint. We will review the information and determine what course of action, if any, should be taken. We may open an investigation or refer this matter to another agency or law enforcement authority for appropriate action.

Please be advised that our agency is required to keep confidential all records and information pertaining to any investigation we undertake, including the identity of the complainant. Therefore, we will be unable to provide you with the status or outcome of any investigation we may undertake, although under certain circumstances our final investigative reports with findings of misconduct may be publicly released.

If you made this complaint on behalf of an agency, board or commission, state university or a regional transit board, please be advised that the filing of this complaint does not obviate any other obligation you or other employees may have regarding the subject matter of this complaint.

If you have additional information concerning your initial complaint, or any other matter, please feel free to contact us. Your commitment to ensuring honesty, integrity, and accountability in state government is greatly appreciated and we thank you for bringing this matter to our attention.

Sincerely,

Margaret A. Hickey
Executive Inspector General

A handwritten signature in dark ink, appearing to read "Antoinette A. Kwateng", written over a horizontal line.

By:

Antoinette A. Kwateng
Deputy Inspector General
Complaints & Compliance Division



OFFICE OF EXECUTIVE INSPECTOR GENERAL
FOR THE AGENCIES OF THE ILLINOIS GOVERNOR

69 WEST WASHINGTON STREET, SUITE 3400
CHICAGO, ILLINOIS 60602
(312) 814-5600

REFERRAL

August 12, 2016

William Grant
901 Wythe Road
Springfield, IL 62702

Re: OEIG Complaint #16-01315

Dear Mr. Grant:

Upon review of your complaint, the Office of Executive Inspector General has determined that the nature of your allegation is such that it is more appropriately addressed by the Department of Employment Security. The OEIG works closely with other inspectors general and agency investigators where necessary to ensure the matter is appropriately addressed. Therefore, we have referred your complaint to that office.

Please be aware that there are stringent "whistle blower" protections provided in the State Officials and Employees Ethics Act (5 ILCS 430/15-5) that prohibit retaliation against those who make good faith allegations of misconduct.

Pursuant to Illinois Statute and Executive Order, complaints, files and reports of the Office of Executive Inspector General are confidential and may not be disclosed. Any such disclosure could impede an investigation and thereby interfere with the enforcement of the law. (5 ILCS 430/20-90(b); 5 ILCS 430/20-95 (D); Executive Order 4, §V (2)). If you have any questions regarding non-disclosure of confidential information, please feel free to contact our office.

Sincerely,

Margaret A. Hickey
Executive Inspector General

By:


Antoinette A. Kwateng
Deputy Inspector General
Complaints & Compliance Division

APPENDIX G



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 26, 2016

Mr. William Grant
901 Wythe Road
Springfield, IL 62702

Re: Your Complaint Against State of Illinois, 2016-CRC-3695

Dear Mr. Grant:

We have reviewed your recent complaint regarding the above matter and appreciate your bringing this matter to our attention. Although we understand the concerns expressed in your complaint, the facts presently do not warrant further action by our Office.

Under Illinois law, we cannot provide legal advice or represent you as your personal lawyer. Consequently, if you wish to pursue this matter, we suggest that you consider discussing it with a private attorney.

This letter is not intended to render any opinion regarding the legal merits of any claim you may have.

We wish to express our appreciation for your cooperation in bringing this matter to our attention. It is only through the assistance of concerned citizens such as yourself that we can effectively do our job of enforcing Illinois' laws and protecting Illinois citizens' rights.

Sincerely,

THE OFFICE OF THE ATTORNEY GENERAL
OF THE STATE OF ILLINOIS

500 South Second Street, Springfield, Illinois 62706 • (217) 782-1090 • TTY: (877) 844-5461 • Fax: (217) 782-7046
100 West Randolph Street, Chicago, Illinois 60601 • (312) 814-3000 • TTY: (800) 964-3013 • Fax: (312) 814-3806
601 South University Avenue, Suite 102, Carbondale, Illinois 62901 • (618) 529-6400 • TTY: (877) 675-9339 • Fax: (618) 529-6416

APPENDIX H



STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, ILLINOIS 62706

Pat Quinn
GOVERNOR

August 2, 2010

Re: William Grant

To Whom It May Concern,

It is my pleasure to provide this letter of recommendation for William Grant. I am currently William's direct supervisor in Governor Pat Quinn's Office of Citizen Action. He has been an intern here since June 2010.

As a Constituent Affairs intern, William was responsible for managing constituent phone calls, opening and responding to letters, occasionally drafting public documents such as proclamations and newsletter articles and working on projects related to constituent outreach. He had the opportunity to become very familiar with state government and developed a solid understanding of the functions of many of the State agencies under the purview of the Governor.

Throughout the summer, he also managed the valedictorian celebration at the 2010 State Fair, which is an annual event attended by high school valedictorians throughout the state, as well as the Governor. He managed this project on his own and was solely responsible for the logistics of this major event as well as communicating with all participants.

William has been a very valuable asset not only to the Governor's Office of Citizen Action, but was helpful in other units within the Governor's Office as well. He is a team player and I believe he will be a great addition to your office. I do not hesitate to offer my recommendation.

Sincerely,

A handwritten signature in cursive script that reads "Donna Dalton".

Donna Dalton
Director of Constituent Affairs

APPENDIX I



SHEILA SIMON

LIEUTENANT GOVERNOR
STATE OF ILLINOIS

December 2, 2011

Re: Will Grant

Dear Friends,

It is with some sadness that I recommend Will Grant for your consideration as an employee. I am sad to do so because I will miss him on my staff.

Will has worked on my staff for almost a year now, and I have benefitted greatly. He is open and engaging, traits which make him such a good person for the constituent contact he has on a daily basis. In addition to doing his work well, Will has the extra quality of being good to work with. I have consistently enjoyed my interactions with Will, whether it has been about the needs of constituents or about his crazy vegetable diet.

I should also add, because of our history as a state, Will should not be given any special consideration based on political connections or my recommendation. I write this letter as one employer to another employer. I ask that you consider Will and all of his qualifications, and I believe both you and he will be well served.

Thanks, and please feel free to call me if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Sheila Simon", with a long, sweeping horizontal line extending to the right.

Sheila Simon
Lt. Governor of Illinois

IDOT
District 9 Headquarters
Carbondale, IL 62903
Phone: (618) 529-6452
Fax: (618) 529-6455

214 State House
Springfield, IL 62706
Phone: (217) 558-3085
Fax: (217) 558-3094
TTY: 1-800-563-7110

JRTC, 15-200
Chicago, IL 60601
Phone: (312) 814-5240
Fax: (312) 814-5228

APPENDIX J



STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, ILLINOIS 62706

Pat Quinn
GOVERNOR

December 21, 2014

To Whom It May Concern:

I am pleased to recommend Will Grant for employment. I have always known Will to be a skilled and dedicated public servant for the State of Illinois. His innate interpersonal skills and work ethic have earned him the respect and confidence of his colleagues.

Will is highly organized, mission oriented, and hard working. Will has proven himself to be an essential team member, and I am confident he will continue to be just that with his future employers.

I am certain that he will be an asset and make great contributions to your organization. If you have any additional questions regarding Will's experience or abilities, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Croke".

Ryan Croke
Chief of Staff
(847) 271-7926

APPENDIX K

16-6030 3

IN THE CIRCUIT COURT OF THE 7TH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

William Lee Grant II
Plaintiff (s)

Vs.

Case No.: 2016-MR-000643
Amount Claimed \$30,000,000,000,000

Richard Abel Kabaker,
State of Illinois, and
U.S. Department of Justice
Defendant (s)

Gov. Bruce Rauner
207 State House
Springfield, IL 62706
To each defendant:

SUMMONS

You are hereby summoned and required to appear before this court at Sangamon County Complex,
200 South Ninth Street, Springfield, Illinois
at 9:30 o'clock a.m., on September 6, 2016, to answer the complaint in this case, a copy of which is
hereto attached. IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF
ASKED IN THE COMPLAINT.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service
and fees, if any, immediately after service and not less than 3 days before day of appearance. If service cannot be made, this summons
shall be returned so indorsed. This summons may not be served later than 3 days before the day of appearance.

WITNESS, AUG 15 2016, 20

(Plaintiff's attorney or plaintiff if he is not represented by an attorney)

Name: William Lee Grant II
Attorney for: _____
Address: 901 Wythe Road
City: Springfield
Telephone: (217) 726-5269

RECEIVED

AUG 15 2016

SHERIFF'S OFFICE
RECORD SECTION

Date of service: 9-2-2016, 20
(To be inserted by officer on copy left with defendant or other person)



SANGAMON COUNTY SHERIFFS OFFICE
"Keeping the Peace Since 1821"

Administration - (217) 753-6855
Civil Process/Records - (217) 753-6846

WES BARR
#1 Sheriff's Plaza
Springfield, IL 62701

Investigations - (217) 753-6840
Corrections - (217) 753-6886

SG TRACKING #16-

I, Gary R. Dougherty #3997 certify that I served this summons as follows:

- ☐ Personal service on an individual, by leaving a copy of the summons and complaint with the defendant personally
- ☐ Abode service on an individual, by leaving a copy of the summons and complaint with a member of the household thirteen (13) years or older, informing said person of the contents thereof, and also by sending a copy of the summons, in a sealed envelope, postage paid, to the individual listed in the summons.
- ☒ Corporation service, by leaving a copy of the summons and complaint with an agent or officer of the corporation listed in the summons.
- ☐ Other service, as described below.

Case Number 2016-MR-000643

Name of defendant COV. BAKER LAMEN

Name of other person
Summons left with MEGAN

Sex (M / F) Race W Approx. age 20

Date of Service 9-2-2016 Time 1451

Date of Mailing _____

Address at which paper was served:

204 STATE HOUSE

Service fees (Circle One) \$42.00 or \$82.00

Circle One: PAID PAUPER NO CHARGE

Wesley L. Barr, Sheriff of Sangamon County

By Gary R. Dougherty, Civil Process Officer

IN PARTNERSHIP WITH THE COMMUNITY

16-6224 3

IN THE CIRCUIT COURT OF THE 7TH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

William Lee Grant II

Plaintiff (s)

RECEIVED

AUG 16 2016

SHERIFF'S OFFICE
RECORD SECTION

Vs.

Case No.: 2016-MR-000643

Amount Claimed \$30,000,000,000,000

Richard Abel Kabaker,
State of Illinois, and
U.S. Department of Justice

Defendant (s)

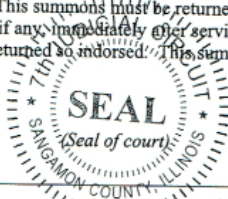
U.S. Attorney James A. Lewis
U.S. Attorney's Office
318 So Sixth Street
Springfield, IL 62701
To each defendant.

SUMMONS

You are hereby summoned and required to appear before this court at Sangamon County Complex,
200 South Ninth Street, Springfield, Illinois
at 9:30 o'clock a.m., on September 6, 2016, to answer the complaint in this case, a copy of which is
hereto attached. IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF
ASKED IN THE COMPLAINT.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service
and fees, if any, immediately after service and not less than 3 days before day of appearance. If service cannot be made, this summons
shall be returned so indorsed. This summons may not be served later than 3 days before the day of appearance.



WITNESS, AUG 15 2016, 20

[Signature]

(Plaintiff's attorney or plaintiff if he is not represented by an attorney)

Name: William Lee Grant II

Attorney for:

Address: 901 Wythe Road

City: Springfield

Telephone (217) 726-5269

Date of service: 9-2-16 1504, 20
(To be inserted by officer on copy left with defendant or other person)

Form No. SC9002-03

PAUPER



SANGAMON COUNTY SHERIFFS OFFICE
"Keeping the Peace Since 1821"

Administration - (217) 753-6855
Civil Process/Records - (217) 753-6846

WES BARR
#1 Sheriff's Plaza
Springfield, IL 62701

Investigations - (217) 753-6840
Corrections - (217) 753-6886

SG TRACKING #16-

I, Gary R. Dougherty #3997 certify that I served this summons as follows:

- ☐ Personal service on an individual, by leaving a copy of the summons and complaint with the defendant personally
- ☐ Abode service on an individual, by leaving a copy of the summons and complaint with a member of the household thirteen (13) years or older, informing said person of the contents thereof, and also by sending a copy of the summons, in a sealed envelope, postage paid, to the individual listed in the summons.
- ☒ Corporation service, by leaving a copy of the summons and complaint with an agent or officer of the corporation listed in the summons.
- ☐ Other service, as described below.

Case Number 2016-MN-000643
Name of defendant V-S ATKIN
Name of other person
Summons left with DAWN
Sex (M / F) Race W Approx. age 50
Date of Service 9-2- /2016 Time 1504
Date of Mailing _____
Address at which paper was served:
318 S 6th

Service fees (Circle One) \$42.00 or \$82.00

Circle One: PAID PAUPER NO CHARGE

Wesley L. Barr, Sheriff of Sangamon County

By Gary R. Dougherty, Civil Process Officer

IN PARTNERSHIP WITH THE COMMUNITY

APPENDIX L



SHERIFF'S OFFICE OF COOK COUNTY, ILLINOIS
AFFIDAVIT OF SERVICE



CASE NUMBER: 16MR000643 MULT.SER. 1 DOC. TYPE: SUMMONS
FILED DATE: 08/16/2016
DIST: 601 DC

DEFENDANT
KABAKER, RICHARD ABEL
100 W RANDOLPH ST
CHICAGO, IL 60601
STE 6 600

PLANTIFF
GRANT, WILLIAM LEE II
ATTORNEY
WILLIAM LEE GRANT II
901 WYTHE RD
SPRINGFIELD, IL 62702
(217) 726-5269

FOREIGN

ATTACHED FEE AMOUNT:
SERVICE INFORMATION:

I CERTIFY THAT I SERVED THE DEFENDANT/RESPONDENT AS FOLLOWS:

- ☒ **(1) PERSONAL SERVICE:**
BY LEAVING A COPY OF THE WRIT/ORDER WITH THE DEFENDANT/RESPONDENT PERSONALLY, AND INFORMING DEFENDANT/RESPONDENT OF CONTENTS.
- ☐ **(2) SUBSTITUTE SERVICE:**
BY LEAVING A COPY OF THE SUMMONS AND COMPLAINT AT THE DEFENDANT'S USUAL PLACE OF ABODE WITH A FAMILY MEMBER OR PERSON RESIDING THERE, 13 YEARS OR OLDER, AND INFORMING THAT PERSON OF THE CONTENTS OF THE SUMMONS. ALSO, A COPY OF THE SUMMONS WAS MAILED TO THE DEFENDANT AT HIS OR HER USUAL PLACE OF ABODE ON THE _____ DAY OF _____ 20____.
- ☐ **(3) UNKNOWN OCCUPANTS:**
BY LEAVING A COPY OF THE SUMMONS AND COMPLAINT NAMING "UNKNOWN OCCUPANTS" WITH A PERSON OF THE AGE OF 13 OR UPWARDS OCCUPYING SAID PREMISE.
- ☐ **(4) CORP/CO/BUS/PART:**
BY LEAVING THE APPROPRIATE NUMBER OF COPIES OF THE SUMMONS, COMPLAINTS, INTERROGATORIES, JUDGMENTS, CERTIFICATIONS AND NOTICES WITH THE REGISTERED AGENT, AUTHORIZED PERSON OR PARTNER OF THE DEFENDANT CORPORATION _____ COMPANY _____ BUSINESS _____ PARTNERSHIP _____.
- ☐ **(5) PROPERTY RECOVERED:**
NO ONE PRESENT TO RECEIVE ORDER OF COURT. ORDER POSTED IN PLAIN VIEW.
- ☐ **(6) S.O.S./D.O.I.:**
BY LEAVING THE SUMMONS AND COMPLAINT WITH THE SECRETARY OF THE STATE/DIRECTOR OF INSURANCE OF THE STATE OF ILLINOIS, AN AGENT OF SAID DEFENDANT LISTED ABOVE. ANY AGENT OF SAID CORPORATION NOT FOUND IN THE COUNTY OF COOK.
- ☐ **(7) CERTIFIED MAIL**
- ***** COMPLETE THIS SECTION IF WRIT IS A THIRD PARTY CITATION/GARNISHMENT *****
- ☐ **(8)** AND BY MAILING ON THE _____ DAY OF _____ 20____ A COPY OF THE THIRD PARTY GARNISHMENT/CITATION SUMMONS AND NOTICE TO THE JUDGMENT DEBTOR'S LAST KNOWN ADDRESS AS INDICATED IN THE NOTICE WITHIN (2) BUSINESS DAYS OF SERVICE UPON GARNISHEE/THIRD PARTY DEFENDANT.

THE NAMED DEFENDANT WAS NOT SERVED FOR THE GIVEN REASON BELOW:

- | | | |
|--|---|--|
| <input type="checkbox"/> (01) NO CONTACT | <input type="checkbox"/> (05) WRONG ADDRESS | <input type="checkbox"/> (09) DECEASED |
| <input type="checkbox"/> (02) MOVED | <input type="checkbox"/> (06) NO SUCH ADDRESS | <input type="checkbox"/> (10) NO REGISTERED AGENT |
| <input type="checkbox"/> (03) EMPTY LOT | <input type="checkbox"/> (07) EMPLOYER REFUSAL | <input type="checkbox"/> (11) OUT OF COOK COUNTY |
| <input type="checkbox"/> (04) NOT LISTED | <input type="checkbox"/> (08) CANCELLED BY PLAINTIFF ATTY | <input type="checkbox"/> (12) OTHER REASON (EXPLAIN) |

EXPLANATION: Served at new location 69 West Washington
21st Floor 1st DEPT

WRIT SERVED ON: Kabaker, Richard ABEL DATE _____ ATTEMPTED SERVICES
SEX: M RACE: W AGE: 67 TIME (AM/PM) _____ STAR # _____
THIS 23 DAY OF Aug, 20 16 : _____ : _____
Thomas J. Dart
SHERIFF, BY: Jhan 10683 DEPUTY : _____ : _____

VSA618

T. Lamplin #10683

APPENDIX M



STATE OF ILLINOIS
OFFICE OF THE LIEUTENANT GOVERNOR
100 WEST RANDOLPH STREET
CHICAGO, ILLINOIS 60601

EVELYN SANGUINETTI
LIEUTENANT GOVERNOR

July 22, 2016

VIA MAIL

William Grant
Via email: wgran2@gmail.com

Re: FOIA Request

Dear Mr. Grant:

This letter is in response to your Illinois Freedom of Information Act ("FOIA") request received on July 11, 2016 seeking a copy of your personnel file from the Office of the Governor and Office of the Lieutenant Governor. A five (5) day extension was requested by the Office of the Lieutenant Governor on July 18, 2016 with no objection. Moreover, we directed you to the Office of the Governor's FOIA officer pertaining to that specific request.

After a thorough search of our files, it has been determined that the Office of the Lieutenant Governor has no records responsive to your request.

To the extent you consider this response to be a denial of your FOIA request; you have the right to submit a request for review by the Public Access Counselor ("PAC") of the Office of the Illinois Attorney General to:

Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, Illinois 62706
Fax: 217-782-1396
E-mail: publicaccess@atg.state.il.us

If you choose to submit a request for review, you must do so within 60 days after the date of this response letter. The request for review must be in writing, signed by you, and include a copy of your FOIA request and this office's response. 5 ILCS 140/9.5(a). In addition, you have the right to seek judicial review of this response. 5 ILCS 140/11(a)(b).

If you have questions or need additional information, please contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ennedy D. Rivera', with a stylized, flowing script.

Ennedy D. Rivera

General Counsel

Office of Lieutenant Governor Evelyn Sanguinetti | State of Illinois

JRTC | 100 W. Randolph St. | 15th Floor

Chicago, IL 60601

APPENDIX N



SANGAMON COUNTY SHERIFFS OFFICE
"Keeping the Peace Since 1821"

Administration - (217) 753-6855
Civil Process/Records - (217) 753-6846

WES BARR
#1 Sheriff's Plaza
Springfield, IL 62701

Investigations - (217) 753-6840
Corrections - (217) 753-6886

August 8, 2016

Mr. William Grant
901 Wythe Road
Springfield, IL. 62702

Dear Mr. Grant:

The Sangamon County Sheriff's Office of Professional Standards has received your complaint dated July 19, 2016. The complaint was received in this office at approximately 2:45 P.M. today, August 8, 2016. It is my duty to inform you that what you are asking this office to do is beyond the scope of my authority.

Thank you for your time on this matter.

Sincerely:

Enos Brents Lieutenant
Office of Professional Standards
Sangamon County Sheriff's Office

CC: Sheriff Barr
File

IN PARTNERSHIP WITH THE COMMUNITY

APPENDIX O

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

Submitted November 3, 2016
Decided November 14, 2016

Before

WILLIAM J. BAUER, *Circuit Judge*
KENNETH F. RIPPLE, *Circuit Judge*
DIANE S. SYKES, *Circuit Judge*

No. 16-3822	IN RE: WILLIAM LEE GRANT, II, Petitioner
Petition for Writ of Mandamus	
District Court No: 3:16-cv-03245-CSB-EIL District Judge Colin S. Bruce	

Upon consideration of the **WRIT OF MANDAMUS**, filed on October 31, 2016, by pro se Petitioner,

IT IS ORDERED that the petition for writ of mandamus is **DENIED**. William Grant's appeal from the final judgment in 16-cv-3245 allows him to challenge any earlier rulings by the district court. See *Luevano v. Wal-Mart Stores, Inc.*, 722 F.3d 1014, 1019 (7th Cir. 2013). As a result the mandamus petition is unnecessary to the extent that he is seeking review of any order in 16-cv-3245. To the extent that Grant is seeking mandamus relief to review the dismissal of his complaint in 16-cv-3239, the request is **DENIED**.

From: McCroskey, Monica J.
To: [ICLEI Secretary General's Office](#); [ICLEI e.V. Board](#); [Cownie, Frank](#)
Subject: RE: ICLEI Europe Shareholder meeting 2018
Date: Thursday, March 15, 2018 5:13:06 PM
Attachments: [image003.png](#)

This sender failed our fraud detection checks and may not be who they appear to be. Learn about [spoofing](#) [Feedback](#)

Hello Eva,

We were wondering if this meeting has been confirmed yet. Please let me know, so we can confirm it on Mayor's calendar. I'm also able to place a tentative hold to ensure the date/time is still available for him, just let me know which time to hold. Thank you.

Monica McCroskey
Executive Administrative Assistant



Mayor and City Council/
City Manager's Office
400 E Court, Suite 200
Des Moines, IA 50309
mjmccroskey@dmgov.org
Phone: [515-283-4944](tel:515-283-4944)
Fax: [515-237-1300](tel:515-237-1300)

From: eva.madeira@iclei.org [mailto:eva.madeira@iclei.org] **On Behalf Of** ICLEI Secretary General's Office

Sent: Monday, March 12, 2018 11:04 AM

To: ICLEI e.V. Board

Subject: ICLEI Europe Shareholder meeting 2018

Dear ICLEI Bonn e.V. Board members,

ICLEI Europe Regional Director, Wolfgang Teubner, has requested the annual ICLEI Europe Shareholder meeting 2018 to take place in the coming weeks. Please let us know your availability [here](#):

14, 21 or 22 March, 2018 at 10:00pm Bonn time / 4:00pm Des Moines time / 8:00am (+1) Melbourne time

If further dates are needed please let us know.

Alternatively if there are limited questions needed to approve the submitted items we can also consider a ballot vote.

Please see the proposed agenda below and supporting documents attached:

Agenda

Item 1 Approval of Audited Annual Financial Statement 2016 (see supporting document)

- Item 1a Profit and Loss Statement 2016
- Item 1b Balance Sheet 2016
- Item 1c Formal discharge of the managing director. It is resolved unanimously that the managing director Wolfgang Teubner is discharged for the financial year 2016.

Item 2 Report on Pre-audit results for 2017 (see supporting document)

- Item 2a Pre-Audit Results 2017
- Item 2b Resolution: Appointed as auditor for the annual report for the financial year 2017 will be Morison Audit AG in Freiburg, Germany.

- Item 2c Official approval of annual report by Shareholder - change of procedure

Item 3 Budget 2018 (see supporting document)

- Item 3a Budget 2018
- Item 3b Staff Plan 2018
- Item 3c Resolution: The Shareholder approves the Budget and Staff Plan for the business year 2017

Item 4 European Strategic Workplan 2018 (see supporting document)

Item 5 Any other business

Please let us know if there are any questions.

regards

--

Eva Madeira
Secretary General's office

ICLEI - Local Governments for Sustainability
World Secretariat
Kaiser-Friedrich-Str. 7
53113 Bonn
Germany

Tel. +49-(0)228 / 976 299-14

Fax +49-(0)228 / 976 299-01

Email: secretary.general@iclei.org

Twitter: [@ICLEI](https://twitter.com/ICLEI)

Web: www.iclei.org



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--

You received this message because you are subscribed to the Google Groups "ICLEI e.V. Board" group.

To unsubscribe from this group and stop receiving emails from it, send an email to ICLEIeV.board+unsubscribe@iclei.org.



From: McCroskey, Monica J.
To: eva.madeira@iclei.org
Cc: ICLEI Secretary General's Office; ICLEI e.V. board@iclei.org; Valent, Amanda L.; McCroskey, Monica J.
Subject: RE: ICLEI Europe Shareholder meeting 2018
Date: Monday, March 26, 2018 3:54:54 PM
Attachments: [image004.png](#)
[ICLEI Europe Shareholder vote_Ballot_March 2018 Cownie.pdf](#)

This sender failed our fraud detection checks and may not be who they appear to be. Learn about [spoofing](#)

[Feedback](#)

Eva,

Mayor Cownie approves all items and has signed the document. Let us know if you need anything else, thank you.

Monica McCroskey
Executive Administrative Assistant


CITY OF DES MOINES
OFFICE OF THE MAYOR
Mayor and City Council/
City Manager's Office
400 E Court, Suite 200
Des Moines, IA 50309
mjmccroskey@dmgov.org
Phone: 515-283-4944
Fax: 515-237-1300



CHECK BEFORE YOU MAKE THE TREK

City Hall has moved and you may want to check before you come in as some offices are temporarily at new locations.

Check out the website at dmgov.org/move, call 515-283-4500, email us info@dmgov.org to check the location or to find out if you can take care of what you need over the phone or online. The same friendly City staff is available to help whichever option you choose, but to save time, please check before you make the trek.

From: Eva Madeira [mailto:eva.madeira@iclei.org]
Sent: Monday, March 26, 2018 1:44 PM
To: McCroskey, Monica J.
Cc: ICLEI Secretary General's Office; ICLEI e.V. board@iclei.org
Subject: Re: ICLEI Europe Shareholder meeting 2018

Dear all

As everyone seems to be comfortable with approving the decision items by ballot vote, the conference call later today is therefore replaced with the ballot vote (ballot again attached).

Please let us know if you do not agree or have any questions regarding the decision items.
Thank you for your time.

regards
Eva Madeira

On Mon, Mar 26, 2018 at 4:07 PM, McCroskey, Monica J. <MJMccroskey@dmgov.org> wrote:

Please confirm if this will be a ballot vote or phone call. If it is a ballot vote, does Mayor Cownie have the electronic signature needed? Thank you.

Monica McCroskey
Executive Administrative Assistant

Mayor and City Council/
City Manager's Office
400 E Court, Suite 200
Des Moines, IA 50309
mjmccroskey@dmgov.org
Phone: 515-283-4944
Fax: 515-237-1300

-----Original Message-----

From: Cathy Oke [mailto:Cathy.Oke@melbourne.vic.gov.au]
Sent: Monday, March 26, 2018 7:29 AM
To: ICLEI Secretary General's Office
Cc: ICLEI e.V. Board; Wolfgang Teubner
Subject: Re: ICLEI Europe Shareholder meeting 2018

Hi Gino and Wolfgang

Please remember that I only have 30 mins and I'll be traveling whilst on this meeting call so 1) can someone else please chair the meeting and 2) I'll give my proxy to Gino if I have to leave before all decisions have been made.

Cathy

Cr Cathy Oke

On 26 Mar 2018, at 10:16 pm, ICLEI Secretary General's Office <secretary_general@iclei.org<mailto:secretary_general@iclei.org>> wrote:

Dear ICLEI Bonn e.V. Board members,

We look forward to speaking later today (Monday 26 March, 2018) for the ICLEI Europe Shareholder meeting 2018 at 5:30pm Des Moines time / 9:30am (+1) Melbourne time / 6:30am (+1) Taipei time / 00:30am Bonn time.

The call will take place on the landline conference call system:

Conference call number Australia: [+61 \(0\) 3 8672 0100](tel:+61(0)386720100)<<tel:+61%203%208672%200100>> ; access code: 724366# Conference call number USA: (641) 715-3836<[tel:\(641\)%20715-3836](tel:(641)%20715-3836)> ; access code: 724366# Conference call number Taiwan: +886 (0) 985 646 920<<tel:+886%20985%20646%20920>> ; access code: 724366# Conference call number Germany: [+49 \(0\) 30 2555 7610](tel:+49(0)3025557610)<<tel:+886%20985%20646%20920>> ; access code: 724366#

Please find the agenda below and supporting documents again attached:

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- Item 1b Balance Sheet 2016

- Item 1c Formal discharge of the managing director. It is resolved unanimously that the managing director Wolfgang Teubner is discharged for the financial year 2016.

Item 2 Report on Pre-audit results for 2017 (see supporting document)

- Item 2a Pre-Audit Results 2017

- Item 2b Resolution: Appointed as auditor for the annual report for the financial year 2017 will be Morison Audit AG in Freiburg, Germany.

- Item 2c Official approval of annual report by Shareholder - change of procedure

Item 3 Budget 2018 (see supporting document)

- Item 3a Budget 2018

- Item 3b Staff Plan 2018

- Item 3c Resolution: The Shareholder approves the Budget and Staff Plan for the business year 2017

Item 4 European Strategic Workplan 2018 (see supporting document)

Item 5 Any other business

ICLEI - Local Governments for Sustainability is the leading global network of over 1,500 cities, towns and regions committed to building a sustainable future. By helping the ICLEI Network to become sustainable, low-carbon, ecomobile, resilient, biodiverse, resource-efficient, healthy and happy, with a green economy and smart infrastructure, we impact over 25% of the global urban population.

----- Forwarded message -----

From: ICLEI Secretary General's Office <secretary_general@iclei.org<mailto:secretary_general@iclei.org>>

Date: Sat, Mar 24, 2018 at 3:37 AM

Subject: Fwd: ICLEI Europe Shareholder meeting 2018

To: "ICLEI e.V. Board" <ICLEIeV.board@iclei.org<mailto:ICLEIeV.board@iclei.org>>

Dear ICLEI Bonn e.V. Board members,

Thank you for your confirmation to attend the ICLEI Europe Shareholder meeting 2018 on Monday 26 March, 2018 at 5:30pm Des Moines time / 9:30am (+1) Melbourne time / 6:30am (+1) Taipei time / 00:30am Bonn time.

The call will take place on the landline conference call system:

Conference call number Australia: [+61 \(0\) 3 8672 0100](tel:+61(0)386720100)<<tel:+61%203%208672%200100>> ; access code: 724366# Conference call number USA: (641) 715-3836<[tel:\(641\)%20715-3836](tel:(641)%20715-3836)> ; access code: 724366# Conference call number Taiwan: +886 (0) 985 646 920<<tel:+886%20985%20646%20920>> ; access code: 724366#

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- Item 3a Budget 2018

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- Item 3c Resolution: The Shareholder approves the Budget and Staff Plan for the business year 2017

Item 4 European Strategic Workplan 2018 (see supporting document)

Item 5 Any other business

Please let us know if there are any questions.
regards

--
Eva Madeira

Secretary General's office

ICLEI - Local Governments for Sustainability World Secretariat Kaiser-Friedrich-Str. 7
53113 Bonn
Germany

Tel. [+49-\(0\)228 / 976 299-14](tel:+49-0228-976299-14)

Fax [+49-\(0\)228 / 976 299-01](tel:+49-0228-976299-01)

Email: secretary.general@iclei.org<mailto:secretary.general@iclei.org>

Twitter: @ICLEI<<http://www.twitter.com/ICLEI>>

Web: www.iclei.org<<http://www.iclei.org>>

[[https://docs.google.com/uc?](https://docs.google.com/uc?export=download&id=1BPgE7tHyxGoSylSxvm5do0mcFEDTUMKH&rev=0B9rNuijr5OHsRENDcWV5QWFpQ3dLZUpdGtmWm4wNUpyNWMwPQ)

[export=download&id=1BPgE7tHyxGoSylSxvm5do0mcFEDTUMKH&rev=0B9rNuijr5OHsRENDcWV5QWFpQ3dLZUpdGtmWm4wNUpyNWMwPQ](https://docs.google.com/uc?export=download&id=1BPgE7tHyxGoSylSxvm5do0mcFEDTUMKH&rev=0B9rNuijr5OHsRENDcWV5QWFpQ3dLZUpdGtmWm4wNUpyNWMwPQ)]
<<https://worldcongress2018.iclei.org/>>

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----- Forwarded message -----

From: ICLEI Secretary General's Office <secretary.general@iclei.org><mailto:secretary.general@iclei.org>>

Date: Mon, Mar 12, 2018 at 5:04 PM

Subject: ICLEI Europe Shareholder meeting 2018

To: "ICLEI e.V. Board" <ICLEIeV.board@iclei.org><mailto:ICLEIeV.board@iclei.org>>

Dear ICLEI Bonn e.V. Board members,

ICLEI Europe Regional Director, Wolfgang Teubner, has requested the annual ICLEI Europe Shareholder meeting 2018 to take place in the coming weeks. Please let us know your availability here<<https://doodle.com/poll/zruhhihekhkzcfy8i>>:

14, 21 or 22 March, 2018 at 10:00pm Bonn time / 4:00pm Des Moines time / 8:00am (+1) Melbourne time If further dates are needed please let us know. Alternatively if there are limited questions needed to approve the submitted items we can also consider a ballot vote.

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- Item 3c Resolution: The Shareholder approves the Budget and Staff Plan for the business year 2017

Item 4 European Strategic Workplan 2018 (see supporting document)

Item 5 Any other business

Please let us know if there are any questions.
regards

--
Eva Madeira

Secretary General's office

ICLEI - Local Governments for Sustainability World Secretariat Kaiser-Friedrich-Str. 7
53113 Bonn
Germany

Tel. [+49-\(0\)228 / 976 299-14](tel:+49-0228-976299-14)

Fax [+49-\(0\)228 / 976 299-01](tel:+49-0228-976299-01)
Email: secretary.general@iclei.org<mailto:secretary.general@iclei.org>

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Web: www.iclei.org<<http://www.iclei.org>>

[<https://docs.google.com/uc?export=download&id=1BPgE7tHyxGoSylSxvm5do0mcFEDTUMKH&revId=0B9rNuijr5OHsRENDcWV5QWFpQ3dLZUpPdGtmWm4wNUpyNWMwPQJ>]
<<https://worldcongress2018.iclei.org/>>

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<2018-03-07_Agenda Report.docx>
<Item_3a_Shareholder_Budget_2018.pdf>
<Item_2c_Approval of audited annual report.pdf> <Item_2a_Preliminary_Results_2017 (1).pdf> <Item_1b_Balance Sheet 2016.pdf> <Item_1a_Profit and Loss 2016.pdf> <Item_3b_Shareholder_Staff-Plan_2018.pdf>
<ICLEI ES Strategic Work Plan 2018.pdf>
<2018-03-26_Shareholder_Meeting_Agenda.pdf>
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Regards,
Eva Madeira

Head of ICLEI Global Membership and Governance

ICLEI - Local Governments for Sustainability
World Secretariat
Kaiser-Friedrich-Str. 7
53113 Bonn
Germany

Tel. [+49-228 / 97 62 99-04](tel:+49-228-976299-04)
Fax [+49-228 / 97 62 99-01](tel:+49-228-976299-01)

www.iclei.org

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Help shape the world's perspective on cities, towns and regions by completing the ICLEI Network's [Global Impact Survey](#).



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ICLEI Europe Shareholder

Voting Ballot

26 March, 2018

Instructions:

Once you have finished voting below please sign, inserting your (electronic) signature. For more information, please contact secretary.general@iclei.org or wolfgang.teubner@iclei.org

DECISION ITEM 1.a/b (see supporting documents)

Resolution: Approval of Audited Annual Financial Statement for 2016.

☒ **Approve** ☐ **Disapprove**

Check one the boxes above to cast your vote.

DECISION ITEM 1.c (see supporting documents)

Resolution: Approval of the formal discharge of the managing director, Wolfgang Teubner, for the 2016 accounts.

☒ **Approve** ☐ **Disapprove**

Check one the boxes above to cast your vote.

DECISION ITEM 2.b (see supporting documents)

Resolution: Approval of the appointment of Morison Audit AG in Freiburg, Germany as the auditor for the annual report for the financial year 2017.

☒ **Approve** ☐ **Disapprove**

Check one the boxes above to cast your vote.

DECISION ITEM 2.c (see supporting documents)

Resolution: Approval of the official annual report for 2017.

☒ **Approve** ☐ **Disapprove**

Check one the boxes above to cast your vote.

DECISION ITEM 3.c (see supporting documents)

Resolution: Approval of the Budget and Staff Plan for the business year 2017.

☒ **Approve** ☐ **Disapprove**

Check one the boxes above to cast your vote.

J. M. Franklin Gurnie

March 26, 2018

Signature, date

Return ballots to Email: secretary.general@iclei.org

From: [Valent, Amanda L.](#)
To: [Cownie, Frank](#)
Subject: RE: Kosovo Delegation / Friendship Force confirmation - May 7
Date: Thursday, May 03, 2018 3:15:40 PM

Tina:

I spoke with Shelley Bain and the Welcome Meeting for Monday, May 7, 2018 is on Mayor's calendar from 9-9:30 am at City Hall.

Please let me know if you need anything further! Thanks!

From: Valent, Amanda L.
Sent: Thursday, May 3, 2018 11:18 AM
To: Cownie, Frank <FCownie@DMGOV.ORG>
Subject: RE: Kosovo Delegation / Friendship Force confirmation - May 7

Tina:

I am working with Monica to identify and coordinate the meeting currently on the calendar and the below request. I will keep you apprised of the outcome. Thank you!

From: Cownie, Frank
Sent: Thursday, May 3, 2018 9:57 AM
To: Valent, Amanda L. <ALValent@dmgov.org>
Subject: Kosovo Delegation / Friendship Force confirmation - May 7

Amanda, I dont see this on his calendar UNLESS the John Tone appointment is the Kosovo welcome.
Thanks, Tina

Sent from my iPad

Begin forwarded message:

From: "Shelley Bain" <shelleybain@centurylink.net>
Date: May 2, 2018 at 8:19:30 PM CDT
To: <fcownie@dmgov.org>
Subject: Kosovo Delegation / Friendship Force confirmation - May 7

Dear Mayor Cownie,
This is a confirmation of a Welcome to the City meeting between you and a delegation from Kosovo (Preventing Fraud and Corruption in Government) on Monday, May 7
9:00 – 9:30 am
Des Moines City Hall

400 Robert D Ray Drive

We look forward to seeing you then.

Shelley Bain

515-279-8908

From: [Valent, Amanda L.](#)
To: [Cownie, Frank](#)
Subject: RE: Kosovo Delegation / Friendship Force confirmation - May 7
Date: Thursday, May 03, 2018 11:17:59 AM

Tina:

I am working with Monica to identify and coordinate the meeting currently on the calendar and the below request. I will keep you apprised of the outcome. Thank you!

From: Cownie, Frank
Sent: Thursday, May 3, 2018 9:57 AM
To: Valent, Amanda L. <ALValent@dmgov.org>
Subject: Kosovo Delegation / Friendship Force confirmation - May 7

Amanda, I dont see this on his calendar UNLESS the John Tone appointment is the Kosovo welcome.
Thanks, Tina

Sent from my iPad

Begin forwarded message:

From: "Shelley Bain" <shelleybain@centurylink.net>
Date: May 2, 2018 at 8:19:30 PM CDT
To: <fcownie@dmgov.org>
Subject: Kosovo Delegation / Friendship Force confirmation - May 7

Dear Mayor Cownie,
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Des Moines City Hall
400 Robert D Ray Drive

We look forward to seeing you then.
Shelley Bain
515-279-8908

From: [Valent, Amanda L.](#)
To: [Cownie, Frank](#)
Subject: RE: Kosovo Delegation / Friendship Force confirmation - May 7
Date: Thursday, May 03, 2018 4:05:40 PM

No, Monica and I both do not know who John Tone is?? Do you know who Mr. Tone is?
Both meetings will be held at City Hall, which will be convenient.

From: Cownie, Frank
Sent: Thursday, May 3, 2018 3:30 PM
To: Valent, Amanda L. <ALValent@dmgov.org>
Subject: Re: Kosovo Delegation / Friendship Force confirmation - May 7

Did Shelley confirm this is why John Tone is on the calendar. Otherwise Frank needs to reschedule John.

Sent from my iPad

On May 3, 2018, at 3:15 PM, Valent, Amanda L. <ALValent@dmgov.org> wrote:

Tina:

I spoke with Shelley Bain and the Welcome Meeting for Monday, May 7, 2018 is on Mayor's calendar from 9-9:30 am at City Hall.

Please let me know if you need anything further! Thanks!

From: Valent, Amanda L.
Sent: Thursday, May 3, 2018 11:18 AM
To: Cownie, Frank <FCownie@DMGOV.ORG>
Subject: RE: Kosovo Delegation / Friendship Force confirmation - May 7

Tina:

I am working with Monica to identify and coordinate the meeting currently on the calendar and the below request. I will keep you apprised of the outcome. Thank you!

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Sent: Thursday, May 3, 2018 9:57 AM
To: Valent, Amanda L. <ALValent@dmgov.org>
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From: "Shelley Bain" <shelleybain@centurylink.net>

Date: May 2, 2018 at 8:19:30 PM CDT

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Subject: Kosovo Delegation / Friendship Force confirmation - May 7

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Monday, May 7

9:00 – 9:30 am

Des Moines City Hall

400 Robert D Ray Drive

We look forward to seeing you then.

Shelley Bain

515-279-8908

From: Matt Connolly
To: [Cownie, Frank](#)
Subject: Re: Bus is leaving Holy Trinity for economic development tour
Date: Friday, October 14, 2016 3:37:42 PM

Sorry we missed you. It was fun, lots of great activity of the DM West side. Catch you next time. Thanks for your vote this week on our market district project.

MATT T. CONNOLLY
LICENSED BROKER TO SELL REAL ESTATE IN IOWA
515-975-9600
IOWA REALTY
3521 BEAVER AVE. DSM, IA 50310
OFFICE HRS: M-F 8-6:30

From: Matt Connolly
Sent: Friday, October 14, 2016 10:14:06 AM
To: fcownie@dmgov.org
Subject: Bus is leaving Holy Trinity for economic development tour

Come on!

MATT T. CONNOLLY
LICENSED BROKER TO SELL REAL ESTATE IN IOWA
515-975-9600
IOWA REALTY
3521 BEAVER AVE. DSM, IA 50310
OFFICE HRS: M-F 8-6:30

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From: Nathan Proctor
To: [Cownie, Frank](#)
Cc: [Sue](#)
Subject: Re: Can you help us end anonymous shell companies?
Date: Thursday, May 05, 2016 2:02:09 PM

Hello Mayor Cownie,

I was just circling back on this to see if you had any thoughts. Feel free to ask Sue Dinsdale of ICAN or I if you have any questions.

Best,

Nathan

On 5/3/2016 10:50 AM, Nathan Proctor wrote:

Hello Mayor Cownie,

I am working with Sue Dinsdale and ICAN on a project to end the use of anonymous shell companies (you can read a recent letter she wrote to the Register [here](#)). Part of our project is to get a letter signed by city and county elected officials, and she suggested you would be a great person to reach out to.

In Iowa and around the country, shell companies are used to avoid accountability for all sorts of bad behavior – from funding Super PAC attack ads to laundering money for terrorists. It's at the heart of the "Panama Papers" leak.

Most businesses have nothing to hide, but if you do have something to hide, it's easy: You just set up an anonymous shell company -- which in America, requires less personal information than it takes to get a library card.

We are working to back a bipartisan plan to end the use of anonymous shell companies and are gathering voices of support from civic leaders such as yourself. Would you be willing to sign our letter?

*We, the undersigned, are calling on Congress and the Obama Administration to take action to challenge injustice, protect the most vulnerable, curb corruption and promote transparency by ending the use of anonymous shell companies in the U.S.
Anonymous shell companies are used to hide illegal behavior – from fraud, to terrorism, human trafficking and drug running – and protect criminals from justice.*

Please support the bipartisan reforms that require all American companies to disclose their 'beneficial' owners – the real, living individuals who own and ultimately control a company – to the government when they are created, and to keep that information up to date.

In order to move ahead, we need Sen. Chuck Grassley – who has cosponsored this measure in the past – to stand with us now.

Working with a strong coalition of small business, anti-corruption, faith-based, human rights, public-interest, and international development organizations, we are working to show support for this common-sense reform. You can help by adding your name to our letter!

Best,

Nathan Proctor

--

Nathan Proctor
National Campaign Director
Fair Share
O: (617) 747-4429
C: (203) 522-3860

--

Nathan Proctor
State Director
Massachusetts Fair Share
O: (617) 747-4429
C: (203) 522-3860

[Facebook](#) | [Twitter](#) | [Blog](#)

From: Zac Bales-Henry
To: [Cownie, Frank](#)
Subject: Re: DART Commission
Date: Friday, December 29, 2017 4:19:20 PM

Good Afternoon Frank,

I wanted to circle back and see if you would like to meet with me regarding this matter?

Please let me know, thank you for your time.

On Wed, Dec 6, 2017 at 11:22 AM, Zac Bales-Henry <zac.bales-henry@cbdsm.com> wrote:
Morning Frank,

If you have time, I would be great to grab a coffee. I'd like to touch base regarding dart as well as the relationship between our two cities. I know your schedule is busy, so feel free to throw out the times that work best for you.

Thanks,
ZBH

--

Zac Bales-Henry | Broker Associate
Coldwell Banker Mid-America Group, Realtors®



Mobile: [515.494.7772](tel:515.494.7772)

Desk: [515.224.8658](tel:515.224.8658)

Email: ZBH@cbdsm.com

Address: [601 East Locust Street | Des Moines, IA 50309](#)

[My Website](#) | [My App](#)



LICENSED IN IOWA

--

Zac Bales-Henry | Broker Associate
Coldwell Banker Mid-America Group, Realtors®

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From: [Cownie, Frank](#)
To: [Valent, Amanda L.](#)
Subject: Re: Kosovo Delegation / Friendship Force confirmation - May 7
Date: Thursday, May 03, 2018 3:30:09 PM

Did Shelley confirm this is why John Tone is on the calendar. Otherwise Frank needs to reschedule John.

Sent from my iPad

On May 3, 2018, at 3:15 PM, Valent, Amanda L. <ALValent@dmgov.org> wrote:

Tina:

I spoke with Shelley Bain and the Welcome Meeting for Monday, May 7, 2018 is on Mayor's calendar from 9-9:30 am at City Hall.

Please let me know if you need anything further! Thanks!

From: Valent, Amanda L.
Sent: Thursday, May 3, 2018 11:18 AM
To: Cownie, Frank <FCownie@DMGOV.ORG>
Subject: RE: Kosovo Delegation / Friendship Force confirmation - May 7

Tina:

I am working with Monica to identify and coordinate the meeting currently on the calendar and the below request. I will keep you apprised of the outcome. Thank you!

From: Cownie, Frank
Sent: Thursday, May 3, 2018 9:57 AM
To: Valent, Amanda L. <ALValent@dmgov.org>
Subject: Kosovo Delegation / Friendship Force confirmation - May 7

Amanda, I dont see this on his calendar UNLESS the John Tone appointment is the Kosovo welcome. Thanks, Tina

Sent from my iPad

Begin forwarded message:

From: "Shelley Bain" <shelleybain@centurylink.net>
Date: May 2, 2018 at 8:19:30 PM CDT
To: <fcownie@dmgov.org>

Subject: Kosovo Delegation / Friendship Force confirmation - May 7

Dear Mayor Cownie,

This is a confirmation of a Welcome to the City meeting between you and a delegation from Kosovo (Preventing Fraud and Corruption in Government) on

Monday, May 7

9:00 – 9:30 am

Des Moines City Hall

400 Robert D Ray Drive

We look forward to seeing you then.

Shelley Bain

515-279-8908

From: [Cownie, Frank](#)
To: [Valent, Amanda L.](#)
Subject: Re: Kosovo Delegation / Friendship Force confirmation - May 7
Date: Thursday, May 03, 2018 8:47:53 PM

Frank will reschedule John Tone or move him to after Kosovo. Thanks

Sent from my iPad

On May 3, 2018, at 4:05 PM, Valent, Amanda L. <ALValent@dmgov.org> wrote:

No, Monica and I both do not know who John Tone is?? Do you know who Mr. Tone is? Both meetings will be held at City Hall, which will be convenient.

From: Cownie, Frank
Sent: Thursday, May 3, 2018 3:30 PM
To: Valent, Amanda L. <ALValent@dmgov.org>
Subject: Re: Kosovo Delegation / Friendship Force confirmation - May 7

Did Shelley confirm this is why John Tone is on the calendar. Otherwise Frank needs to reschedule John.

Sent from my iPad

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Subject: Kosovo Delegation / Friendship Force confirmation - May 7

Amanda, I dont see this on his calendar UNLESS the John Tone appointment is the Kosovo welcome. Thanks, Tina

Sent from my iPad

Begin forwarded message:

From: "Shelley Bain" <shelleybain@centurylink.net>
Date: May 2, 2018 at 8:19:30 PM CDT
To: <fcownie@dmgov.org>
Subject: Kosovo Delegation / Friendship Force confirmation - May 7

Dear Mayor Cownie,
This is a confirmation of a Welcome to the City meeting between you and a delegation from Kosovo (Preventing Fraud and Corruption in Government) on
Monday, May 7
9:00 – 9:30 am
Des Moines City Hall
400 Robert D Ray Drive

We look forward to seeing you then.
Shelley Bain
515-279-8908

From: Aram Stein
To: ceyberg@mum.edu; [Cownie, Frank](#); ron.corbett@cedar-rapids.org; greg.fischer@louisvilleky.gov
Cc: Cs_interns@mum.edu; jlongwell@wichita.gov; carl.gerlach@opkansas.org; mayor@lexingtonky.gov
Subject: SEEKING HIDDEN NATURAL LAWS ALLWAYS
Date: Thursday, June 01, 2017 5:23:25 PM
Attachments: [TRUE STORY OF TRINITY.pdf](#)
[star_of_david_three_species_DNS.pdf.pdf](#)

Dear Natural Law,

We buried our ancestors alive and forgot about them. We replaced three species -- Denisovan (Asia), Neanderthal (Europe) and Sapien (Africa) -- with a one species fiction. We created a "Beast" who gnashed his teeth and rolled his eyes; his scars and candlelit stars made us tougher than we are. We created "One Father" who injected grace as a predator's paralytic toxin into its prey.

Is this simply the butterfly's winged eyes, chameleon's leafy appeal, or black widow's venom and dark alley creep? Are abstracted false narrative masks simply "dog-eat-dog" natural law, Natural Law? Was Neanderthal's fiction extinction necessity to prevent it? How about Denisovan hiding under a rock? Was it three species mixture allegory that sustained our three pillar home? We may never know. I do know this, however. We are all still here and I am glad.

Ultimately, our evolution comes down to this. The advantage goes to those who live in truth -- fish and boat surfing the flood; bird and bucket surviving the fire; burrower and engineer skirting the cold. Truth's acuity is to witness the hidden wing on the branch and veiled tail on the stone. This is our claim to fame, after all. Truth in the Trinity is simply our nature saying "I win, again!"

Yes, hiding is a natural strategy in evolution. Certainly diversity is thankful for that. But seeking is also natural and inevitable. When seek finds hide, hide must run or stay. So here's my final question for you, Natural Law. Now that seek has found you again, will you run, fight, or accept seek to live another day?

SEEKING HIDDEN NATURAL LAWS ALLWAYS,
ARAM

http://tangent.xyz/images/truth_of_trinity.png

<https://www.facebook.com/aram.stein.1/videos/259718934493857/>
<https://www.facebook.com/aram.stein.1/videos/204655090000242/>
<https://www.facebook.com/aram.stein.1/videos/267252160407201/>
<https://www.facebook.com/aram.stein.1/videos/268692720263145/>
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<https://www.facebook.com/aram.stein.1/videos/271217470010670/>
<https://www.facebook.com/aram.stein.1>
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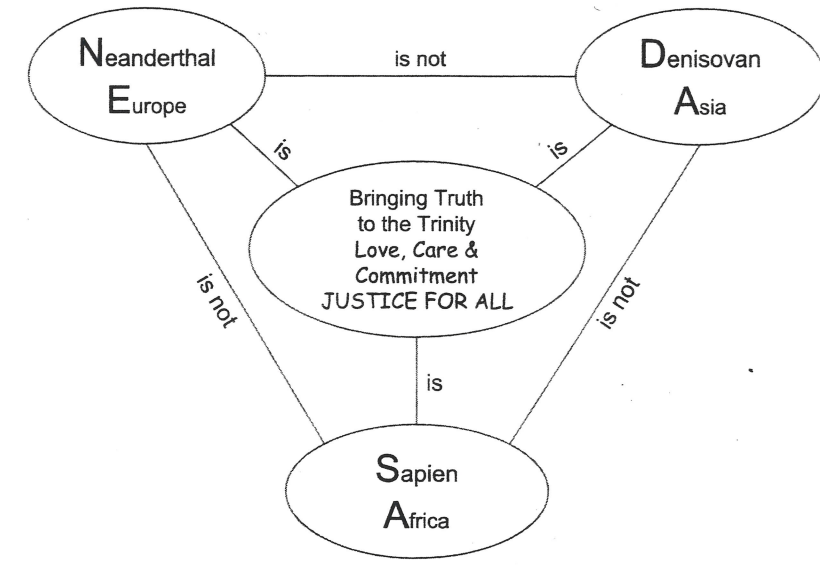
NATURAL LAW, PLEASE REVISE THESE ASAP:

<https://plato.stanford.edu/entries/trinity/>
<https://plato.stanford.edu/entries/trinity/trinity-history.html>
<http://www.bbc.com/news/uk-england-merseyside-40099397>
[https://en.wikipedia.org/wiki/Natural_Law_Party_\(United_States\)](https://en.wikipedia.org/wiki/Natural_Law_Party_(United_States))
https://en.wikipedia.org/wiki/David_Lynch
<https://www.youtube.com/watch?v=L3I-yyDfIrQ&app=desktop>
https://en.wikipedia.org/wiki/Maharishi_Mahesh_Yogi
<https://www.youtube.com/watch?v=aLeBZjPOJ-c>
https://en.wikipedia.org/wiki/Tony_Nader
<https://www.youtube.com/watch?v=IeBUFzP9C1w>
https://en.wikipedia.org/wiki/John_Hagelin
<https://www.youtube.com/watch?v=ZjT831cjaUY>
https://en.wikipedia.org/wiki/Brian_Epstein
<https://www.youtube.com/watch?v=gYyTsi3By5w>
<http://www.dailymail.co.uk/tvshowbiz/article-512747/Lennon-right-The-Giggling-Guru-shameless-old-fraud.html>

3T·DNSM♥

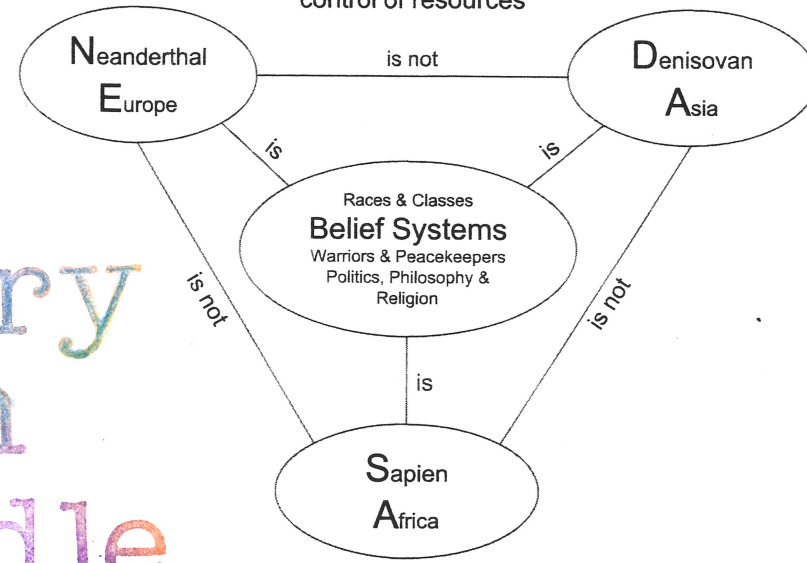
Sentient Beings

Knowing who we are, how we got here, being truthful,
walking the walk, sharing love and care, and bringing
balance to justice is what we need now



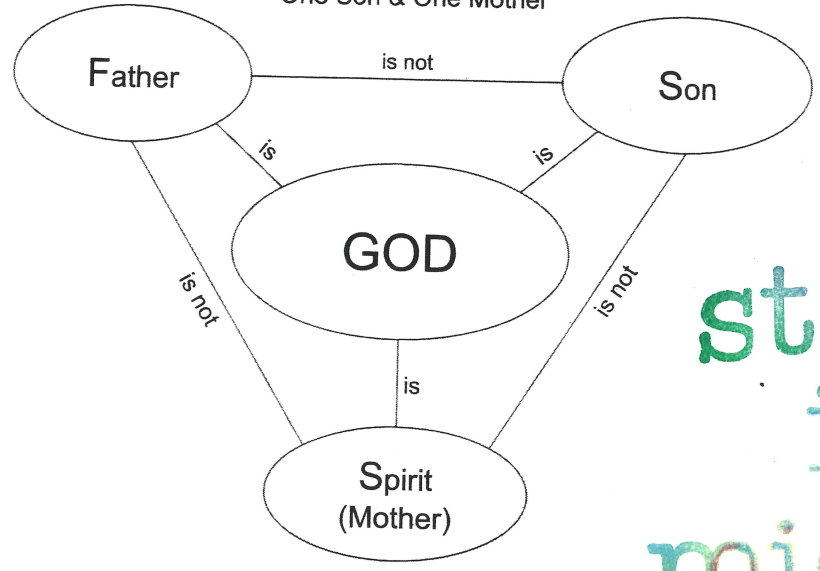
Three Species

Waging belief systems against each other for
control of resources



The Trinity

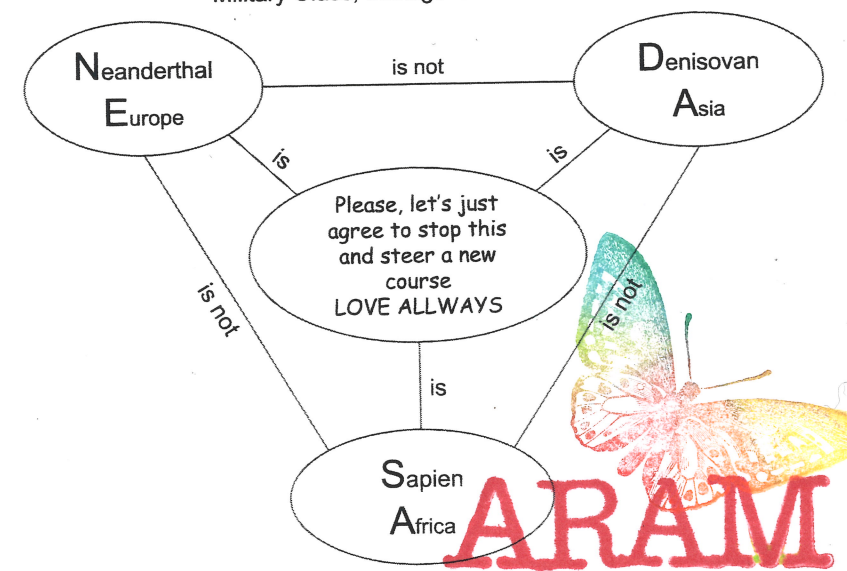
Faith in One God, One Father,
One Son & One Mother



story
in
middle
(us)

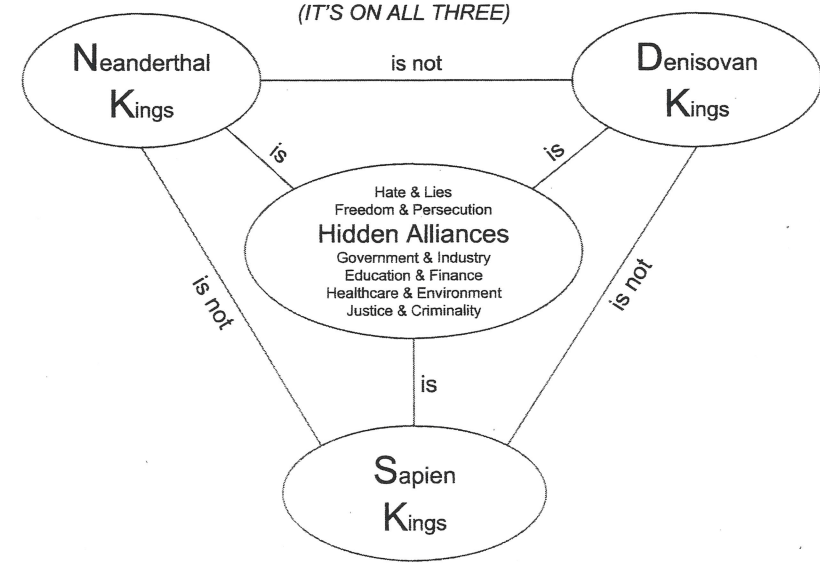
Three Species + Mixtures

All of us are trapped in an ancient strategy which uses
extortion and untruths to maintain an ancient order of a
Military Class, Intelligentsia and Slaves



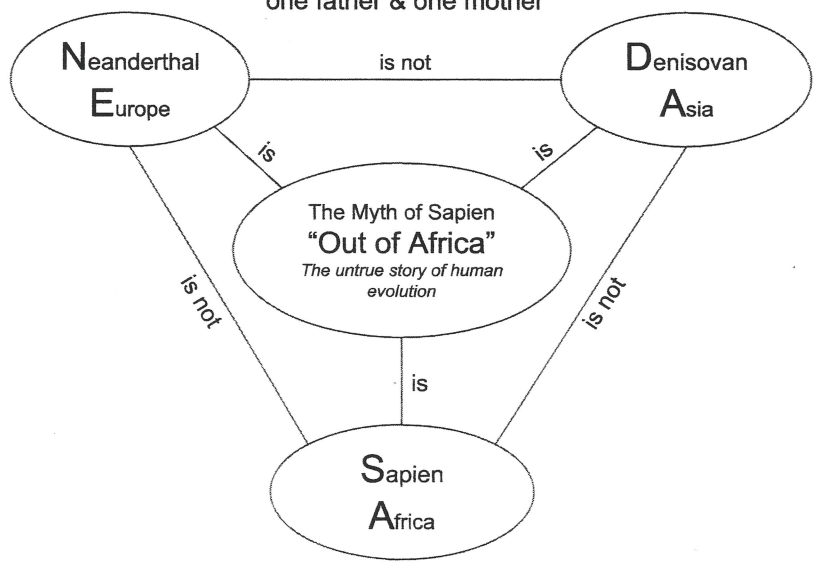
Three Kingdoms

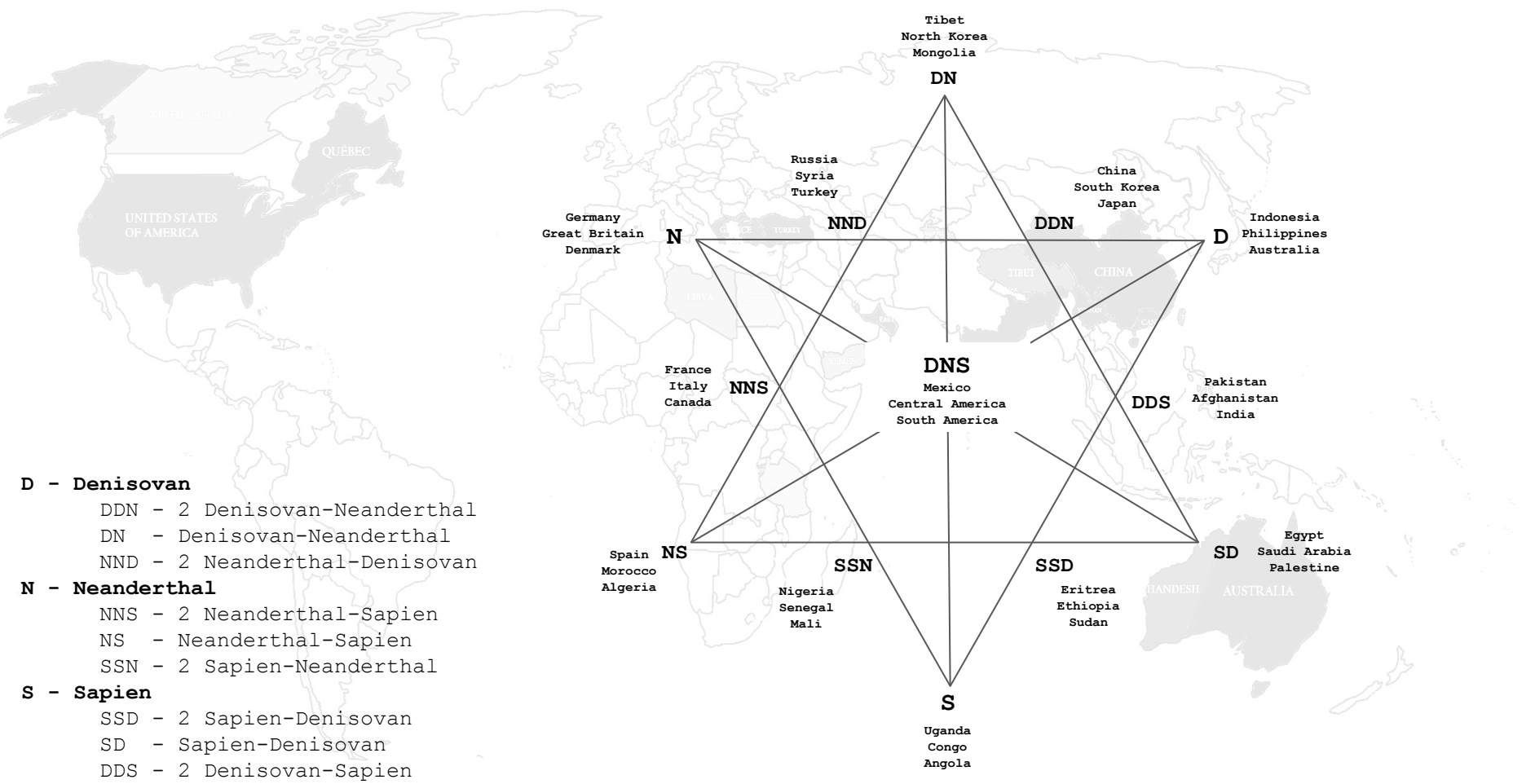
The Multi-Species KKK
(IT'S ON ALL THREE)



Three Species!

Collapsing three fathers & three mothers into
one father & one mother





D - Denisovan

- DDN - 2 Denisovan-Neanderthal
- DN - Denisovan-Neanderthal
- NND - 2 Neanderthal-Denisovan

N - Neanderthal

- NNS - 2 Neanderthal-Sapien
- NS - Neanderthal-Sapien
- SSN - 2 Sapien-Neanderthal

S - Sapien

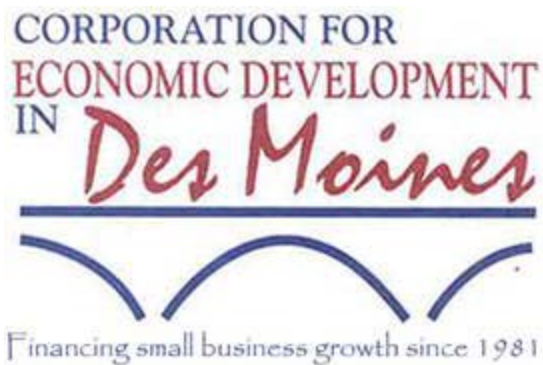
- SSD - 2 Sapien-Denisovan
- SD - Sapien-Denisovan
- DDS - 2 Denisovan-Sapien

From: [Vorbrich, Terry N.](#)
To: [Cownie, Frank](#)
Cc: [Frank Cownie](#)
Subject: Talking points - US Mayor Event
Date: Monday, November 27, 2017 8:01:14 AM
Attachments: [Talking points - US Mayor Event.docx](#)

Frank, Attached are talking points as to how OED/City interact with small businesses in Des Moines. Call me to discuss.

Terry

Terrance N. Vorbrich
The Corporation for Economic Development in Des Moines
400 Robert D Ray Drive
Des Moines, IA 50309
Office: 515.283.4017
FAX: 515.237.1667
email: ced@dmgov.org



Talking points – Coffee with Mayor – A small business day in Des Moines

City of Des Moines – OED Small Business Development activities

1) Public-Private Partnership with The Corporation for Economic Development in Des Moines- 34-year partnership provides direct loan assistance to small businesses, financial support to technical assistance partners, and referral source to technical assistance partners;

a) SBA 504 Loan program – assist small businesses in purchasing fixed assets i.e., real estate and buildings, new construction, renovations, and equipment - 126 projects \$37.5 million direct loans that leveraged \$94 million in private investment, 1,384 jobs

b) Under 28 E Agreement – City funded (CDBG) loan programs Revolving Loan Fund, MicroLoan and Loan Injection Program

128 projects, \$2.8 million in loans, leveraged \$10.9 million in private investment, 562 jobs

c) Under 28E Agreement, City provides contracted staff and space for CED operations

2) OED acts as a Referral Source to technical assistance partners:

SBA – information on lending programs assisting in access to capital for small businesses

Small Business Development Center (SBDC)– provides one-on-one counseling for startups and existing businesses; City Staff (TVorbrich) serves on MidIowa (Des Moines Regional Center) and Statewide Advisory Boards

SCORE—Provide one-on-one mentoring to Entrepreneurs and startup businesses – Provide SimpleSteps for Starting a Business – 12- hour program over 4 weeks held three times per year – City staff (TVorbrich) assists in facilitation of SimpleSteps program

Women’s Business Center, provides entrepreneur counseling on starting a business for women, minorities and individuals with disabilities; administers State of Iowa Targeted Small Business Loan Program;

Iowa Microloan – Statewide microloan program with loans up to \$50,000; City staff (TVorbrich) on Board of Directors and assist with marketing program in Des Moines area

Square 1 DSM, accelerator program to assist new startup ventures to accelerate growth; City and CED among initial funders of program;

GDMP Small Business Training Programs – 1st year offering schedule of education programs on topics to assist small businesses to be successful

3) OED acts as Referral Source for Other City Services – direction on permits, zoning, development assistance

4) City provides annually \$1 million in funding to Neighborhood Development Corporation (NDC) that builds new commercial spaces in LMI Neighborhood Commercial Nodes to provide space for small businesses

5) OED staff interactions with Chambers – East/South, Westside, Downtown, as well as DCA/GDMP

From: Reyes-Snyder, Sonia [DHR]
To: [Cownie, Frank](#)
Subject: Temporary Protected Status Extended for Guinea, Liberia and Sierra Leone for Six Months
Date: Wednesday, March 23, 2016 10:18:28 AM

For your information.

Sonia Reyes-Snyder | Executive Officer
Office of Latino Affairs | Iowa Department of Human Rights
Lucas State Office Building 321 E 12th Street | Des Moines, IA 50319
Work 515.281.4080 | Cell 515.954.5595 | Fax 515.242.6119
sonia.reyes-snyder@iowa.gov | <https://humanrights.iowa.gov>

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From: U.S. Citizenship and Immigration Services [mailto:uscis@public.govdelivery.com]
Sent: Tuesday, March 22, 2016 9:53 AM
To: Reyes-Snyder, Sonia [DHR]
Subject: Temporary Protected Status Extended for Guinea, Liberia and Sierra Leone for Six Months

WASHINGTON—Secretary of Homeland Security Jeh Johnson has extended the designations of Guinea, Liberia and Sierra Leone for Temporary Protected Status (TPS) for an additional six months. Although there have been significant improvements in the conditions in all three countries since their designations for TPS in November 2014, the lingering effects of the Ebola Virus Disease outbreak and continued recovery challenges support this six-month extension. The extended designation is effective May 22, 2016, through Nov. 21, 2016.

Current TPS Guinea, Liberia or Sierra Leone beneficiaries seeking to extend their TPS must re-register during a 60-day period that runs from March 22, 2016, through May 23, 2016. U.S. Citizenship and Immigration Services (USCIS) encourages beneficiaries to re-register as soon as possible.

Employment Authorization:

The six-month extension allows TPS re-registrants to apply for a new Employment Authorization Document (EAD). Eligible TPS beneficiaries who re-register during the 60-day period and request a new EAD will receive one with an expiration date of Nov. 21, 2016. USCIS recognizes that some re-registrants may not receive their new EADs until after their current work permits expire. Therefore, USCIS is automatically extending current TPS Guinea, Liberia and Sierra Leone EADs bearing a May 21, 2016 expiration date for six months. These existing EADs are now valid through Nov. 21, 2016.

Re-registering for TPS:

To re-register, current beneficiaries must submit:

- [Form I-821, Application for Temporary Protected Status](#) (re-registrants do not need to pay the Form I-821 application fee);
- [Form I-765, Application for Employment Authorization](#), regardless of whether they want an EAD;
- The Form I-765 application fee (or a fee-waiver request) only if they want an EAD. If the re-registrant does not want an EAD, no application fee is required; and
- The biometric services fee (or a fee-waiver request) if they are age 14 or older.

Individuals who still have a pending initial TPS Guinea, Liberia or Sierra Leone application do not need to submit a new Form I-821. However, if they currently have a TPS-related EAD and want a new EAD, they should submit:

- Form I-765, Application for Employment Authorization;
- The Form I-765 application fee, regardless of their age; and
- A copy of the receipt notice for the initial Form I-821 that is still pending.

Additional information about TPS—including guidance on eligibility, the application process and where to file—is available at uscis.gov/tps. The Federal Register notices published today contain further details about these TPS extensions for [Guinea](#), [Liberia](#) and [Sierra Leone](#), including application requirements and procedures, and the six-month auto-extension of current TPS Guinea, Liberia and Sierra Leone EADs.

USCIS will reject the TPS application of any applicant who fails to submit the required filing fees or a properly documented fee-waiver request. Applicants may request that USCIS waive any fees based on an inability to pay by filing [Form I-912, Request for Fee Waiver](#), or by submitting a written request. Fee-waiver requests must be accompanied by supporting documentation.

All USCIS forms are free. Applicants can download these forms from the USCIS website at uscis.gov/forms or request forms by mail or by calling the USCIS Forms Request Line toll-free at 1-800-870-3676.

Applicants seeking information about the status of their cases can check [My Case Status Online](#) or call the USCIS National Customer Service Center at 1-800-375-5283 (TDD for the deaf and hard of hearing: 1-800-767-1833).

For more information about USCIS and its programs, please visit uscis.gov or follow USCIS on Facebook ([/uscis](#)), Twitter ([@uscis](#)), YouTube ([/uscis](#)) and the USCIS blog [The Beacon](#).

Please do not reply to this message. See our [Contact Us](#) page for phone numbers and e-mail addresses.



STAY CONNECTED:



U.S. Citizenship and Immigration Services sending to sonia.reyes-snyder@iowa.gov
20 Massachusetts Ave NW, Washington DC 20529 · 1-800-375-5283

You are currently subscribed to latino as: fcownie@dmgov.org.

To unsubscribe click here: <https://listmgmt.ia.gov/u?id=2925272.1d908e6c817d5fc1003c64619b5872c6&n=T&l=latino&o=1129528>

or send a blank email to leave-1129528-2925272.1d908e6c817d5fc1003c64619b5872c6@Lists.ia.gov

From: bounce-1147949-2925272@Lists.ia.gov
To: [Cownie, Frank](#)
Subject: Temporary Protected Status Extended for Honduras & Nicaragua
Date: Monday, May 16, 2016 10:34:04 AM
Attachments: [image002.png](#)
[image008.png](#)

For your information

Sonia Reyes-Snyder | Executive Officer
Office of Latino Affairs | Iowa Department of Human Rights
Lucas State Office Building 321 E 12th Street | Des Moines, IA 50319
Work 515.281.4080 | Cell 515.954.5595 | Fax 515.242.6119
sonia.reyes-snyder@iowa.gov | <https://humanrights.iowa.gov>

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WASHINGTON—Secretary of Homeland Security Jeh Johnson has extended Temporary Protected Status (TPS) for eligible nationals of Honduras (and those without nationality who last habitually resided in Honduras) for an additional 18 months, effective July 6, 2016, through Jan. 5, 2018.

Current TPS Honduras beneficiaries who want to extend their TPS must re-register during the 60-day re-registration period that runs from May 16, 2016 through July 15, 2016. U.S. Citizenship and Immigration Services (USCIS) encourages beneficiaries to re-register as soon as possible once the 60-day re-registration period begins.

Employment Authorization:

The 18-month extension allows TPS re-registrants to apply for a new Employment Authorization Document (EAD). Those who re-register during the 60-day period and request a new EAD will receive one with an expiration date of Jan. 5, 2018.

USCIS recognizes that some re-registrants may not receive their new EAD until after their current work permits expire. Therefore, we are automatically extending current TPS Honduras EADs with a July 5, 2016 expiration date for six months. These existing EADs are now valid through Jan. 5, 2017.

Re-registering for TPS:

To re-register, current TPS beneficiaries must submit:

- [Form I-821, Application for Temporary Protected Status](#) (re-registrants do not need to pay the Form I-821 application fee);
- [Form I-765, Application for Employment Authorization](#), regardless of whether they want an EAD;
- The Form I-765 application fee (or a fee-waiver request) only if they want an EAD. If the re-registrant does not want an EAD, no application fee is required; and
- The biometric services fee (or a fee-waiver request) if they are age 14 or older.

Additional information about TPS, including guidance on eligibility, the application process and where to file, is available at uscis.gov/tps. The [Federal Register notice](#) published today contains further details about this TPS extension for Honduras.

USCIS will reject the TPS application of anyone who fails to submit the required filing fee or a properly documented fee-waiver request. Applicants may request that USCIS waive any fees based on an inability to pay by filing [Form I-912, Request for Fee Waiver](#), or by submitting a written request. Fee-waiver requests must be accompanied by supporting documentation.

All USCIS forms are available for free. Download forms or order them by mail through the USCIS website at uscis.gov/forms or by calling the USCIS Forms Request Line toll-free at 1-800-870-3676.

Applicants can check their case status at [My Case Status Online](#) or call the USCIS National Customer Service Center at 1-800-375-5283 (TDD for the deaf and hard of hearing: 1-800-767-1833).

For more information about USCIS and its programs, please visit uscis.gov or follow us on Twitter ([@uscis](#)), YouTube ([/uscis](#)) and the USCIS blog [The Beacon](#).

WASHINGTON—Secretary of Homeland Security Jeh Johnson has extended Temporary Protected Status (TPS) for eligible nationals of **Nicaragua** (and those without nationality who last habitually resided in Nicaragua) for an additional 18 months, effective July 6, 2016, through Jan. 5, 2018.

Current TPS Nicaragua beneficiaries who want to extend their TPS must re-register during the 60-day re-registration period that runs from May 16, 2016 through July 15, 2016. U.S. Citizenship and Immigration Services (USCIS) encourages beneficiaries to re-register as soon as possible once the 60-day re-registration period begins.

Employment Authorization:

The 18-month extension allows TPS re-registrants to apply for a new Employment Authorization Document (EAD). Those who re-register during the 60-day period and request a new EAD will receive one with an expiration date of Jan. 5, 2018.

USCIS recognizes that some re-registrants may not receive their new EAD until after their current work permits expire. Therefore, we are automatically extending current TPS Nicaragua EADs with a July 5, 2016 expiration date for six months. These existing EADs are now valid through Jan. 5, 2017.

Re-registering for TPS:

To re-register, current TPS beneficiaries must submit:

- [Form I-821, Application for Temporary Protected Status](#) (re-registrants do not need to pay the Form I-821 application fee);
- [Form I-765, Application for Employment Authorization](#), regardless of whether they want an EAD;
- The Form I-765 application fee (or a fee-waiver request) only if they want an EAD. If the re-registrant does not want an EAD, no application fee is required; and
- The biometric services fee (or a fee-waiver request) if they are age 14 or older.

Online Accounts:

USCIS is transitioning to process TPS Nicaragua applications electronically; however, applicants must continue to complete the paper forms and submit them by mail. Once we receive the documents, we will scan them into our systems for processing. Applicants with properly filed submissions will receive a USCIS Account Acceptance Notice in the mail with instructions on how to create a USCIS online account.

An online account allows applicants to:

- Check the status of their case;
- Receive notifications and case updates;
- Respond to requests for evidence; and
- Manage contact information online, including address changes.

We will still process TPS Nicaragua applications even if applicants choose not to access their online account. We will also send copies of case notifications via the U.S. Postal Service.

Additional information about TPS, including guidance on eligibility, the application process and where to file, is available at uscis.gov/tps. The [Federal Register notice](#) published today contains further details about this TPS extension for Nicaragua.

USCIS will reject the TPS application of anyone who fails to submit the required filing fee or a properly documented fee-waiver request. Applicants may request that USCIS waive any fees based on an inability to pay by filing [Form I-912, Request for Fee Waiver](#), or by submitting a written request. Fee-waiver requests must be accompanied by supporting documentation.

All USCIS forms are available for free. Download forms or order them by mail through the USCIS website at uscis.gov/forms or by calling the USCIS Forms Request Line toll-free at 1-800-870-3676.

Applicants can check their case status at [My Case Status Online](#) or by calling the USCIS National Customer Service Center at 1-800-375-5283 (TDD for the deaf and hard of hearing: 1-800-767-1833).

For more information about USCIS and its programs, please visit uscis.gov or follow us on Twitter ([@uscis](#)), YouTube ([/uscis](#)) and the USCIS blog [The Beacon](#).

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**U.S. Citizenship
and Immigration
Services**



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Need Help?





From: David Adelman
To: bkindred@city.ames.ia.us; bob@rescottco.com; bpadmore@sioux-city.org; ctymgr@cityofdubuque.org; DavidAdelman@fcownie@mac.com; gaer.steve@rrrealty.com; geoff-fruin@iowa-city.org; j.pomeranz@cedar-rapids.org; Lester.Jeffrey.D@Warburton.Joyce.M@larry@llmurphy.com; michelle.weidner@waterloo-ia.org; McCroskey.Monica.J@mwalsh@councilbluffs-ia.gov; rbwade@justice.com; rdbuol@cityofdubuque.org; rgehl@cityofdubuque.org; Sanders.Scott.E@tgoodman@cityofdubuque.org; a.charipar@cedar-rapids.org; Ashley Monroe; Brad Hart; Chelsey Sondag; Corri Spiegel; Dan Jordet; Eleanor Dilkes; Frank J. Chiodo; Cownie, Frank; Gary Grant; Jamie Letzring; Schulte, Jen L.; John Haila; Julie Smith; Lindsey McCune; Mallory Mertiitt; Matt Hinch; Mayor Frank Klipsch; Mayor Jim Throgmorton; Mayor Quentin Hart; Robert Palmer; Sara Allen; Simon Andrew; Tim Coonan; Tom Hadden; Wendy Schultz
Subject: Traffic Cameras and Backfill
Date: Tuesday, February 20, 2018 8:11:52 PM
Attachments: [Senate Daily Debate 02-21-2018.pdf](#)

Metro Members-

The senate debate calendar was released this evening and has the traffic camera ban on the agenda. We are working our strategy to circling back with legislators that we believe are opposed to the ban and believe in home rule. Please reach out to your legislators tonight/tomorrow morning asking them to support local control and oppose the legislation (SF2148).

On a separate issue, we believe the Senate will be releasing their version of tax reform. We believe this bill will affect multiple development tax credits and possibly the backfill in order to cut the personal and corporate income tax. As soon as we see the text it will be forwarded to you for analysis and we can develop a calculated response.

I propose a conference call Thursday afternoon. Please email me directly on times that DO NOT work and I will send out a calendar invite.

David

David R. Adelman | Principal & Director



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EIGHTY-SEVENTH GENERAL ASSEMBLY
2018 REGULAR SESSION
DAILY
TENTATIVE SENATE DEBATE CALENDAR
WEDNESDAY, FEBRUARY 21, 2018

- [SF 2148](#)
Zaun
A bill for an act prohibiting the use of automated or remote systems for traffic law enforcement, requiring the removal of existing systems, and including effective date provisions. (Formerly [SSB 3025](#).) By Judiciary. (Eligible: 02/06/2018) [SIMILAR/COMPANION To [HF 2118](#),[HF 40](#)]
- [SF 2169](#)
Breitbach
A bill for an act limiting the liability of an alcoholic beverage licensee or permittee for certain alcohol-related injuries. (Formerly [SSB 1179](#).) By Commerce. (Eligible: 02/08/2018) [SIMILAR/COMPANION To [HF 2391](#)]
- [SF 2229](#)
Shipley
A bill for an act relating to obtaining a mechanic's lien when a person takes collateral security on a contract for furnishing material or performing labor. (Formerly [SSB 3100](#).) By Judiciary. (Eligible: 02/14/2018)
- [SF 2235](#)
Shipley
A bill for an act relating to criminal acts committed on or against critical infrastructure property and providing penalties. (Formerly [SSB 3062](#).) By Judiciary. (Eligible: 02/15/2018) [SIMILAR/COMPANION To [HF 2394](#)]
- [SF 2256](#)
Brown
A bill for an act relating to campaign finance, including electronic filing requirements for statements and reports filed with the ethics and campaign disclosure board and disclosure requirements for contributions made to candidates or committees. (Formerly [SSB 3111](#).) By State Government. (Eligible: 02/15/2018)
- [SF 2262](#)
Feenstra
A bill for an act relating to final-stage motor vehicle manufacturers. (Formerly [SSB 3132](#).) By Commerce. (Eligible: 02/15/2018) [SIMILAR/COMPANION To [HF 2308](#)]
- [SF 2305](#)
Chapman
A bill for an act relating to workers' compensation and insurance fraud and other prohibited health service provider practices, providing appropriations and penalties, and including effective date and applicability provisions. (Formerly [SSB 3165](#).) By Commerce. (Eligible: 02/21/2018)
- [SF 2306](#)
Smith
A bill for an act concerning the notification by the ethics and campaign disclosure board of certain candidates that an amended disclosure report has been filed by another candidate. (Formerly [SSB 3085](#).) By State Government. (Eligible: 02/21/2018)
- [SF 2326](#)
Breitbach
A bill for an act relating to the coordination of enforcement activities between the department of transportation and the department of public safety, including provisions relating to department of transportation employees designated as peace officers, and including effective date provisions. (Formerly [SSB 3192](#).) By Transportation. (Eligible: 02/22/2018) [SIMILAR/COMPANION To [HF 2416](#)]

PREPARED IN THE OFFICE OF
SENATE MAJORITY LEADER BILL DIX

From: Reyes-Snyder, Sonia [DHR]
To: [Cownie, Frank](#)
Subject: USCIS Website, E-Verify Now Optimized for Mobile Devices
Date: Monday, February 29, 2016 2:56:10 PM

Announcement from USCIS

Sonia Reyes-Snyder | Executive Officer

Office of Latino Affairs | Iowa Department of Human Rights

Lucas State Office Building 321 E 12th Street | Des Moines, IA 50319

Work 515.281.4080 | Cell 515.954.5595 | Fax 515.242.6119

sonia.reyes-snyder@iowa.gov | <https://humanrights.iowa.gov>

Email correspondence to and from this address may be subject to the Iowa Public Records Law, Code of Iowa Chapter 22, and may be disclosed to third parties.

From: U.S. Citizenship and Immigration Services [mailto:uscis@public.govdelivery.com]
Sent: Monday, February 29, 2016 11:10 AM
To: Reyes-Snyder, Sonia [DHR]
Subject: USCIS Website, E-Verify Now Optimized for Mobile Devices

USCIS today announced a series of enhancements to make its website and online products easier to use on mobile devices.

Visitors will find uscis.gov and the Spanish site uscis.gov/es easier to read and use because the content now automatically adjusts to fit the screen of a smartphone, tablet, laptop or desktop computer.

The agency's move to mobile-responsive design includes the [E-Verify](#) program, as well as USCIS' new digital assistant Emma.

"As technology progresses, digital platforms can no longer take a one-size-fits-all approach," said USCIS Director León Rodríguez. "We listened to our customers. Significant numbers access our site and services through mobile devices. These changes will make a big difference in improving their online experience."

About 30 percent of visitors to the English site and more than 50 percent visiting the Spanish site now use a mobile device.

Among the improvements:

- Menu options now collapse for easier viewing on smaller screens or browser windows.
- Users will find it easier to access [SAVE CaseCheck](#) from mobile devices to check whether immigration status queries submitted by benefit-granting agencies are complete.
- Enhancements to E-Verify make logging in and viewing cases quicker and more efficient. Many of these ideas came from customer submissions through the [E-Verify Listens](#) website. These include case creation screens that now replicate the order of fields on [Form I-9](#).

These improvements are part of a USCIS commitment to use technology and innovation to meet the evolving needs of its customers, and a step toward a fully electronic immigration system.

For more information on USCIS and its programs, visit uscis.gov or follow us on Twitter ([@uscis](#)), YouTube ([/uscis](#)) and the USCIS blog [The Beacon](#).

Please do not reply to this message. See our [Contact Us](#) page for phone numbers and e-mail addresses.



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From: Troy Bass
To: [91-300 Greg Chia \(gchia@cityofindianola.com\)](mailto:gchia@cityofindianola.com); [91-600 Norwalk Chief Ryan Coburn \(RCoburn@norwalk.iowa.gov\)](mailto:91-600.Norwalk.Chief.Ryan.Coburn@norwalk.iowa.gov); [Ackworth Richard Bengé Mayor \(outdoorsman1957@medicombb.net\)](mailto:outdoorsman1957@medicombb.net); [Brian Vos; \(brian.vos@norwalk.iowa.gov\)](mailto:brian.vos@norwalk.iowa.gov); [Cownie, Frank; Clerk Karla Martendale City of Sandyville \(karlajmartindale@wildblue.net\)](mailto:karlajmartindale@wildblue.net); [Doug Shull; EMA Commission, Jeff Dumermuth \(jdumermuth@wdm-ia.com\)](mailto:doug.shull@norwalk.iowa.gov); [Troy Bass; Erikai Isley; Mayor, Carlisle Ruth Randleman \(ruthandleman@aol.com\)](mailto:troy.bass@warrencountyia.org); [Mayor, Indianola Kelly Shaw; Mayor, Norwalk Tom Phillips; Mayor, Spring Hill Mike Harris; Mayor, St Marys Tom Ferin; Mayor, West Des Moines Steve Gaer \(steve.gaer@wdm-ia.com\); tbbecker@qwestoffice.net; WC EMA Commission Brent Baughman; WC EMA Commission Diane Hall \(diane@promotionsplus.biz\); WC EMA Commission Frank Curtis; WC EMA Commission Greg Staples; WC EMA Commission Jason Doll \(j.doll@carlisle-ia.gov\); WC EMA Commission Joe Grandstaff; WC EMA Commission Marketa Oliver; WC EMA Commission Mike Eaton; WC EMA Commission Russ Trimble; TeKippe, John F.; WC EMA Commission, Denyse Thompson; WC EMA Commission, Scott Henson](mailto:kelly.shaw@norwalk.iowa.gov)
Subject: Warren County EM Commission Quarterly Meeting Agenda
Date: Monday, April 11, 2016 2:23:31 PM
Attachments: [2016 Apr 12 Commission Agenda.pdf](#)
[ESF 1 - Transportation Mar 2016.pdf](#)
[ESF 3 - Public Works and Engineering 2016.pdf](#)
[2016 JAN 19 Commission Minutes.pdf](#)

Commission Members,

Attached are the supportive documents for tomorrows Commission Meeting at 5:30PM.
The meeting will be held in our usual location ; Warren County West Annex Conference Room, 111 N. Buxton St. Indianola

Thank you

Troy Bass

Coordinator



111 N. Buxton Rm 129
Indianola, IA 50125-2412
515-961-1108 O
515-961-1136 F
515-961-1122 24 hrs
KEØGOW

NOTE: EMAIL CHANGE troyb@warrencountyia.org

AG E N D A

Warren County Emergency Management Commission

Meeting – Tuesday April 12, 2016 -@ -5:30pm

Warren County West Annex Conference Room

Located at 111 N. Buxton ST. Indianola

- 1. Roll Call and Introductions**
- 2. Call Meeting to Order**
- 3. Review / Approve Agenda**
- 4. Approve Previous Meeting Minutes (January, 2016)**
- 5. Review 2016 Budget to date**
 - a. Still waiting on County Contribution of \$128,000 ?
- 6. New Business**
 - a. Review Emergency Support Function #1 – Transportation
 - b. Review Emergency Support Function #3 – Public Works
 - c. Review /Approve Resolution- Public Purpose for Emergency Response Personnel Officials
- 7. Old Business**
 - a. RFP for the Hazard Mitigation Plan for FY17-FY22 will be sent out for requests
- 8. Coordinator Report**

Upcoming projects 2016

 - Troy attending Okoboji Conference May 10 – 13
 - Troy on Vacation June 26 –July 3rd Youth Camp in Lucas IA
 - Participated in Public Health Exercise March 30th and another local exercise in April and May.
- 9. Other Business From the Commission**
- 10. Public Input**

(Note: No action will be taken on public input at this meeting. To assure appropriate public notice public items may be placed on agenda for future meetings for commission consideration.)
- 11. Consider Next Meeting Date**
- 12. Adjourn**

Warren County

Emergency Support Function 1

Transportation

June 2011
Reviewed; March 2016



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Situations and Planning Assumptions	12
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Primary Agency Functions	19
Support Agency Functions	21
ESF Development, Testing, and Maintenance	31
Attachment	
1. Transportation Emergency Response Check List	
2. Copy of Public Works Contact list.	
• See: ESF 3 Public Works Attachment 3- <i>Public Works Contact List</i>	
3. Warren County Railroad Map 11x17 PDF	
4. Special Needs Transit Contacts	
5. Warren County Bridges and weight limits Map	
6. Warren County Road Maps	

Other maps can be found in ESF 7 Resources - Maps

Record of Changes

Change Number	Date of Change	Date Entered	Change Made by (Signature)

Primary and Supporting Agencies

Primary Agencies:

Warren County Engineer's Office/Municipal Public Works Departments

Support Agencies:

City/County

Warren County Emergency Management Agency

Warren County Communications Center

Amateur Radio Emergency Services

Warren County Conservation and Municipal Parks/Recreation Departments

Local Fire and Emergency Medical Services

Warren County Sheriff and Local Community Law Enforcement

Metropolitan Planning Organizations/Regional Planning Affiliations

Local Community School Transportation Directors

State

Civil Air Patrol

Iowa Department of Natural Resources

Iowa Department of Public Safety

Iowa Department of Transportation

Iowa Homeland Security and Emergency Management

Iowa National Guard

Iowa State University Center for Transportation Research and Education

Federal

Department of Agriculture

Department of Defense

Department of Homeland Security

Department of Transportation

National Transportation Safety Board



Introduction

Purpose

Emergency Support Function (ESF) 1-Transportation provides the coordination for resources (human, technical, equipment, facility, materials and supplies) to support emergency transportation needs during an emergency or disaster in Warren County.

The priorities for coordination of these resources may be:

- Materials, personnel, and supplies for the support of emergency activities being conducted and requested by Warren County.
- Relief supplies necessary for recovery from the emergency.
- Public and private transportation resources for the transportation of people, materials, goods, and services to impacted areas.
- Monitoring the condition of all roadways in and around Warren County and restricting access as necessary.

Scope

Warren County wide transportation system consists of roads, state and county highways, interstate, bridges, trails, railroads.

Activities within the scope include:

- a. Coordinate transportation activities and resources during the response phase immediately following and emergency or disaster. Evaluate and analyze information requests to move people materials equipment and other resources as necessary.
- b. Facilitate damage assessments to establish priorities and determine needs of available transportation resources.
- c. Coordinate temporary repair of critical transportation facilities and systems during the recovery phase from an emergency or disaster, including transit, roads and bridges, rail and airport operations.
- d. Develop and update assessments of the transportation service situation and statues in the impacted areas.
- e. Coordinate local, state, and federal agencies, cities special purpose districts and private partners.

Emergency Support Function (ESF) 1 coordinates transportation resources but is not responsible for the movement of goods, equipment, animals, or people. In cases where local authorities are overwhelmed, county support for mass evacuations is addressed in Emergency Support Function (ESF) 6 – Evacuation, Mass Care, Housing, and Human Services. Emergency Support Function (ESF) 1 Transportation can provide activities within the scope of this ESF to support mass evacuations. Assist with the coordination transportation assets during response phase and immediately following a disaster. Assists with damage assessment. Identification of critical transportation facilities and prioritize repairs

Policies

Local

For this ESF 1, the focus of the Warren County Emergency Operations Center (EOC), will be to support incident command and Warren County transportation response activities for emergencies and disasters that affect Warren County.

- A. Focus on support for incident command and county transportation response.
- B. Future local transportation planning will be directed toward satisfying three primary demands.
 - 1. Satisfy the requirements of special needs transportation.
 - 2. Provide support to assist government agencies, including volunteer organizations upon request.
 - 3. Facilitate both obtaining and utilizing civil transportation capacity if such support is required.
- C. Encourage organizations to utilize as much as possible day-to-day policies to integrate transportation.
- D. Each agency should conduct inspections of its own infrastructure after each emergency or disaster.
- E. The agencies should prioritize repairs until incident command provides direction.
- F. Damage Assessments should be shared with emergency management for documentation of damages and to report damages to federal partners for possible presidential disaster declaration.
- G. Each agency should ensure that continuity of operations plans are in place to maintain essential services.

- H. Each agency should participate in drills and exercises to test and improve existing plans and procedures.
- I. Each agency should maintain an updated contact list of essential personnel and share with emergency management.
- J. Each agency should maintain an up to date National Incident Management System (NIMS) Compliant equipment and recourse list and share with emergency management.
- K. Each agency should participate in post disaster briefings and develop an after action report and share data with emergency management.

Federal

The Federal Aviation Administration oversees the safety of civil aviation and is responsible for the certification of airports serving air carriers. It regulates a program to protect the security of civil aviation and enforces regulations under the Hazardous Materials Transportation Act for shipments by air.

The Federal Aviation Administration is responsible for the operation and regulation of the U.S. National Airspace System even during emergencies.

The Federal Highway Administration coordinates highway transportation programs to enhance the country's safety, economic vitality, quality of life, and the environment. The Federal Lands Highway Program provides access to and within national forests, national parks, Indian reservations and other public lands by preparing plans and contracts, supervising construction facilities, and conducting bridge inspections and surveys.

The Federal Motor Carrier Safety Administration was established within the Department of Transportation on January 1, 2000, pursuant to the Motor Carrier Safety Improvement Act of 1999 [Public Law No. 106-159, 113 Stat. 1748 (December 9, 1999)]. Formerly a part of the Federal Highway Administration, the Federal Motor Carrier Safety Administration's primary mission is to prevent commercial motor vehicle-related fatalities and injuries.

The Federal Railroad Administration promotes safe and environmentally sound rail transportation. With the responsibility of ensuring railroad safety throughout the nation, it employs safety inspectors to monitor railroad compliance with federally mandated safety standards including track maintenance, inspection standards, and operating practices.

The Federal Transit Administration assists in developing improved mass transportation systems for cities and communities nationwide. This agency maintains the National Transit library, a repository of reports, documents, and data generated by professionals and others from around the country.

The Pipeline and Hazardous Materials Safety Administration oversees the safety of more than 800,000 daily shipments of hazardous materials in the United States and 64 percent of the nation's energy that is

transported by pipelines. It is dedicated solely to safety by working toward the elimination of transportation-related deaths and injuries in hazardous materials and pipeline transportation, and by promoting transportation solutions that enhance communities and protect the natural environment.

The Surface Transportation Board is an independent, bipartisan, adjudicatory body organizationally housed within the U.S. Department of Transportation. It is responsible for the economic regulation of interstate surface transportation, primarily railroads, within the United States.

The National Transportation Safety Board is an independent U.S. Government agency responsible for civil transportation accidents. It investigates and reports on aviation accidents and incidents, certain types of highway crashes, ship and marine accidents, pipeline incidents, and railroad accidents. When requested, it will assist the military with accident investigation. The Board is also in charge of investigating cases of hazardous waste releases that occur during transportation. Originally established with strong ties to the U.S. Department of Transportation, these ties were later severed under the Independent Safety Board Act of 1975. It receives its authority from Chapter 11, Title 49 of the United States Code.

State

The Iowa Department of Transportation has minimal regulatory jurisdiction over rail operations or service. It does participate in the Surface Transportation Board abandonment process, as needed, as well as making our voice heard relative to both Surface Transportation Board and the Federal Railroad Administration. Complaints about railroads are either resolved with coordination and assistance from the Department of Transportation or through a formal contested case process involving the Department of Inspections and Appeals. Though regulatory authority is limited, the Iowa Department of Transportation's Office of Rail Transportation will guide those with concerns to the appropriate agency or railroad representative. The Iowa Department of Transportation coordinates this consistent with Iowa Administrative Code to promote fast, safe, efficient, and convenient transportation in support of the national objectives of general welfare, economic growth and stability, and the security of Iowa.

Regional

Iowa has nine Metropolitan Planning Organizations and 18 Regional Planning Affiliations. Metropolitan Planning Organizations conduct transportation planning activities in the urban areas with populations of 50,000 or more. These include the urban areas of Council Bluffs, Des Moines, Davenport, Iowa City, Cedar Rapids, Dubuque, Ames, Waterloo, and Sioux City. Regional Planning Affiliations conduct planning for the non-metropolitan areas of the state and cover all 99 counties.

Metropolitan Planning Organizations and Regional Planning Affiliations provide the Iowa Department of Transportation with the following required items.

- Transportation Planning Work Program—annually outlines the transportation planning activities each Metropolitan Planning Organization/Regional Planning Affiliation will undertake for the next fiscal year.

- Long-Range Transportation Plan—provides direction and guidance for each Metropolitan Planning Organization/Regional Planning Affiliation to make efficient transportation investment decisions.
- Public Participation Plan—outlines in detail the process each Metropolitan Planning Organization/Regional Planning Affiliation will follow to adequately involve the public in their transportation planning activities.
- Transportation Improvement Program—an annual document that lays out the individual transportation projects which each Metropolitan Planning Organization/Regional Planning Affiliation will fund for the next three-year period.

The Iowa Department of Transportation Office of Systems Planning works on a daily basis with the Metropolitan Planning Organizations and Regional Planning Affiliations as these four items are being developed. The Office of Systems Planning is also responsible for updating the State Transportation Plan. A key element of the State Transportation Plan is the integration of the Metropolitan Planning Organizations and Regional Planning Affiliations long-range plans.

County

Primary responsibility for management of incidents involving transportation normally rests with State of Iowa, Warren County local community authorities and within the private sector, which own and operate the majority of the transportation resources. As such, Warren County must acknowledge Federal, State and local transportation policies, authorities, and plans that manage transportation systems and prioritize the movement of relief personnel and supplies during emergencies.

NOTE: *Warren County does not own or operate a County Transportation Service.*

The ability to sustain transportation services, mitigate adverse economic impacts, meet societal needs, and move emergency relief personnel and commodities will hinge on effective transportation decisions at all levels. Unnecessary reductions or restrictions to transportation will directly impact the effectiveness of all prevention, preparedness, response, recovery, and mitigation efforts.

During mass evacuations, this ESF coordinates transportation resources for persons, including individuals with special needs provided they meet the following criteria:

- Evacuees can be accommodated at both embarkation points and at destination general population shelters.
- Evacuees can travel on commercial long-haul buses, area school busses or lift-equipped buses.

Consistent with ESF 6 – Evacuation, Mass Care, Housing, and Human Services, ESF 11 – Agriculture, Natural Resources, and Pets, and the Post-Katrina Emergency Management Reform Act, this ESF provides coordination of transportation resources during the evacuation of service and companion animals.

The Warren County Engineer's Office and Municipal Public Works are responsible for providing appropriate engineering, contracting/procurement personnel, and equipment to assist in emergency removal of debris, demolition, repair of roads, streets, bridges, and temporary repair of essential public facilities. They are also responsible for maintaining evacuation routes, providing traffic control devices, assist railroads with rail crossing obstructions, and/or detours.

The County Engineer's Office and Municipal Public Works may also assist ESF 10 – Hazardous Materials with the establishment of perimeter restrictions and ESF 11 – Agriculture, Natural Resources, and Pets during livestock disease movement restrictions.

Damage Assessment is covered in ESF 14 – Community Recovery and Mitigation.



Situations and Planning Assumptions

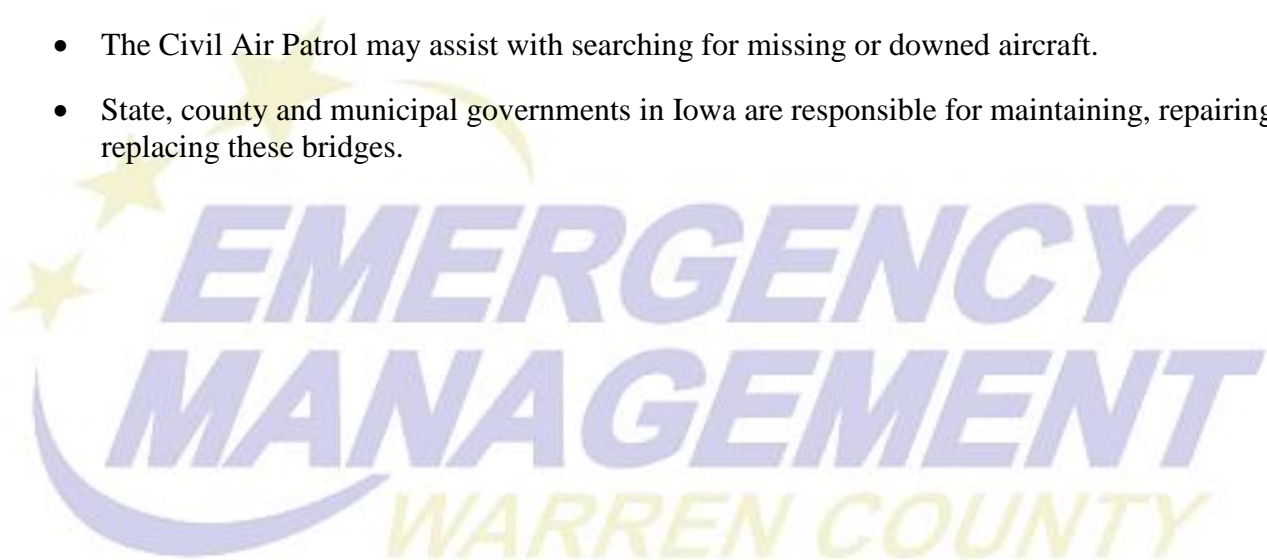
Situations

- Warren County is subject to a number of hazards which could result in the disruption of transportation services to the population, limit the movement of portions of the resident population or have a general deterring effect on the safety and welfare of the people.
- Interstate highways and county roads, major city streets, and rail lines are critical to continued prosperity of Warren County and its municipalities.
- Assistance from the Iowa Department of Transportation agency assistance can be expected in situations having statewide significance.
- Warren County has 13 miles of railroad and 10 railroad crossings.
- Warren County has had 2 rail derailments in the last 10 years.
- Warren County has 99 deficient bridges and 9 that are closed.
- There are 111 public airports in Iowa; none of those are in Warren County.
- Warren County has 2 private airstrips. One agricultural Crop duster and one private association air field.
- Warren County has heliports in each city for medical air ambulance out of Des Moines.
- The Des Moines International Airport just across Warren County's northern border. Commercial Planes and numerous other types of planes that take off and land at the Des Moines International Airport, that fly over Warren County every day.
- Warren County has various underground gas-mains and service lines that transport fuel and chemical products. There are many above ground areas that the underground pipeline is above the ground for pumping purposes, Service, waterway crossways and erosion areas.

Planning Assumptions

- Warren County Emergency Management Agency is responsible for the provision of transportation assets and services (including contracts or other agreements for transportation assistance) for responders, equipment, and goods, consistent with the Emergency Support Function (ESF) 7 – Resource Management.
- Continued operation of transportation services throughout Warren County is essential for effective and efficient response and recovery actions to any disaster or emergency situation.
- Primary responsibilities of both county and local transportation departments will be the restoration and maintenance of transportation services and infrastructure.

- Private transportation companies and carriers will cooperate with and assist government efforts and agencies.
- The County Engineer's Office and Municipal Public Works Departments may work together to maintain roads and streets in condition to facilitate traffic movement.
- The Iowa Department of Transportation may be utilized and requested if needed.
- Assistance from outside Warren County will be available through mutual aid and other existing agreements.
- City and County maintenance crews also may assist with debris and snow removal for emergency responders en route to emergency situations.
- Hazardous materials cargo on interstates is handled by the U.S. Department of Transportation and the Federal Motor Carrier Safety Administration.
- The Civil Air Patrol may assist with searching for missing or downed aircraft.
- State, county and municipal governments in Iowa are responsible for maintaining, repairing or replacing these bridges.



Concept of Operations

General

The Warren County Engineer's Office/Secondary Roads and Local Municipal Public Works Departments within Warren County may continue to function and perform their normal day to day responsibilities regardless of the emergency or disaster situation as much as possible. However, depending on the situation, it may be necessary to temporarily reduce or suspend normal operations.

Emergency Support Function (ESF) 1-Transportation provides a single point to obtain key transportation related information, planning, and emergency management, including prevention, preparedness, response, recovery, and mitigation capabilities at the local and county levels.

Priority actions will be taken to restore interrupted or damaged transportation modes and systems and provide for the movement of all types of traffic. Each primary agency will coordinate local response and recovery operations in close coordination with local, tribal, State and Federal agencies if required.

The principal activities for Emergency Support Function (ESF) 1-Transportation are:

- Monitor and report the status of and damage to the transportation system and infrastructure.
- Identify temporary alternate transportation solutions to be implemented when primary systems or routes are unavailable or overwhelmed.
- Coordinate the issuance of regulatory waivers and exemptions.
- Conducting a thorough and accurate assessment and report of damages that include roads, bridges, culverts and other transportation related infrastructure.
- Provide long term coordination of the restoration and recovery of the affected transportation systems and infrastructure if required.
- Prioritize restoration efforts based on response needs and interdependencies that have far reaching impacts.
- The Warren County Emergency Operations Center (EOC) will collect damage assessment reports for transportation systems within the county as soon as possible after an event.
- County departments, the private sector, volunteer organizations, federal agencies and other local jurisdictions may provide additional transportation. The requesting party and provider should develop prior agreements whenever possible for these resources that have associated fees.

Organization

Emergency Support Function (ESF) 1-Transportation will be activated or placed on standby upon notification by the Warren County Emergency Management Office, if needed.

During the response phase, Emergency Support Function (ESF) 1-Transportation will evaluate and analyze information regarding transportation services requests. Emergency Support Function (ESF) 1-Transportation will develop and update assessments of the transportation services status in the impacted area and undertake contingency planning to meet anticipated requirements.

Additional technical expertise, planning, and operational support will be provided by the Iowa Department of Transportation Headquarters and local field offices.

All emergency operations, whether occurring on-site at the jurisdiction level or at the Emergency Operations Center (EOC), will follow the principles identified in the National Incident Management system (NIMS).

Procedures

If an emergency exists that requires external transportation resources that requires typed resource, shall be identified and then requested through the emergency operations center if opened, or Warren County Emergency Management.

Roles and Responsibilities

ESF 1 Coordinator – Warren County Engineer

Each coordinator has ongoing responsibilities throughout the preparedness, response, recovery, and mitigation phases of incident management. The role of the coordinator is carried out through a “unified command” approach as agreed upon collectively by the designated primary agencies.

Responsibilities of the coordinator include:

- Pre-incident planning and coordination.
- Maintaining ongoing contact with primary and support agencies.
- Conducting periodic meetings and conference calls.
- Coordinating efforts with ties and corresponding private-sector organizations.
- Coordinating activities relating to catastrophic incident planning and critical infrastructure preparedness as appropriate.
- Activating appropriate support agencies.
- Assist emergency responders with barricades and other traffic related supplies and expertise.

- Coordinating government logistical and fiscal activities supporting associated priorities and activation.
- Planning and supporting regular meetings with the primary and support agencies related to preparedness, response, and recovery activities.
- Ensuring support agencies are informed and involved in all meetings.
- Ensuring primary and support agencies are reconvened post-demobilization to critique preparedness, response, recovery, and mitigation activities and develop an improvement action plan to address identified issues.

Primary Agencies

When activated in response to an incident, the primary agency is responsible for:

- Conducting response operations within their functional area for an affected area.
- Providing staff for the operations functions at fixed and field facilities.
- Provide liaison to the EOC as needed.
- Notifying and requesting assistance from support agencies.
- Managing mission assignments and coordinating with support agencies, as well as appropriate local jurisdictions.
- Working with appropriate private-sector organizations to maximize use of all available resources.
- Supporting and keeping all organizational elements informed of operational priorities and activities.
- Procuring goods and services as needed.
- Ensuring financial and property accountability for activities.
- Planning for short-term and long-term incident management and recovery operations.
- Maintaining trained personnel to support interagency emergency response and support teams.
- Coordinating media interviews, if allowed, with the Public Information Officer.
- Providing assistance, as able, to other agencies.

Support Agencies

When activated in response to an event, threat, or incident, support agencies are responsible for:

- Conducting support operations using their own authorities, subject matter experts, capabilities, or resources.
- When needed activate emergency operations center in support of field operations.
- Participating in planning for short-term and long-term incident management, damage assessment, and recovery operations.
- Assisting in the conduct of situational assessments.
- Furnishing available personnel, equipment, or other resource support as requested by the primary agency.
- Providing information or intelligence regarding their agency's area of expertise.

Organizational Structure

The National Incident Management System will be utilized during incidents. See the Warren County Comprehensive Emergency Operations Plan (also known as the "Basic Plan") Concept of Operations.

The size of the evacuation, mass care, housing, or human services operation will determine if an Emergency Operations Center (EOC) is needed. For disasters, a unified command structure may be implemented.

An effective span of control is maintained by consolidating agencies with emergency responsibilities into groups with an internal management structure. Each of the branches is consolidated in the Emergency Operations Center during activation to insure coordination among the various organizations.

Most primary and supporting agencies have personnel assigned to the Emergency Operations Center during emergencies. Each is assigned a place on the floor plan that corresponds to the emergency support function (ESF) in which his/her primary responsibilities lie.

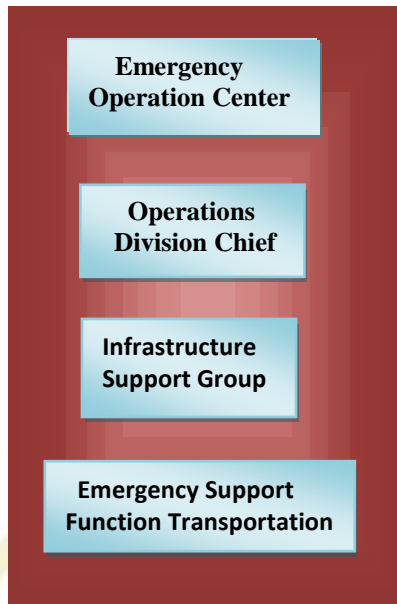
The Emergency Operations Center (EOC) Manager may staff the Emergency Operations Center as needed depending on the size and scope of operation. The Emergency Operations Center will support the Incident Commander (IC) and assist with resource prioritization and resource management.

Information and mission assignments flow between the branches through the Division Chiefs and from the Divisions Chiefs to Incident Commander to the Emergency Operations Center Director.

This ensures that Emergency Management is able to maintain an accurate assessment of the disaster situation and is able to develop short-range and long-range planning guidance for use by other potentially affected emergency support Functions within the Emergency Operations Center. See Emergency Support Function (ESF) 5 – Emergency Management.

**MULTIPLE INCIDENTS
MULTIPLE JURISDICTIONS**

Emergency Operations Center Organization



**SINGLE INCIDENTS
SINGLE JURISDICTIONS**

Incident Command Post Organization

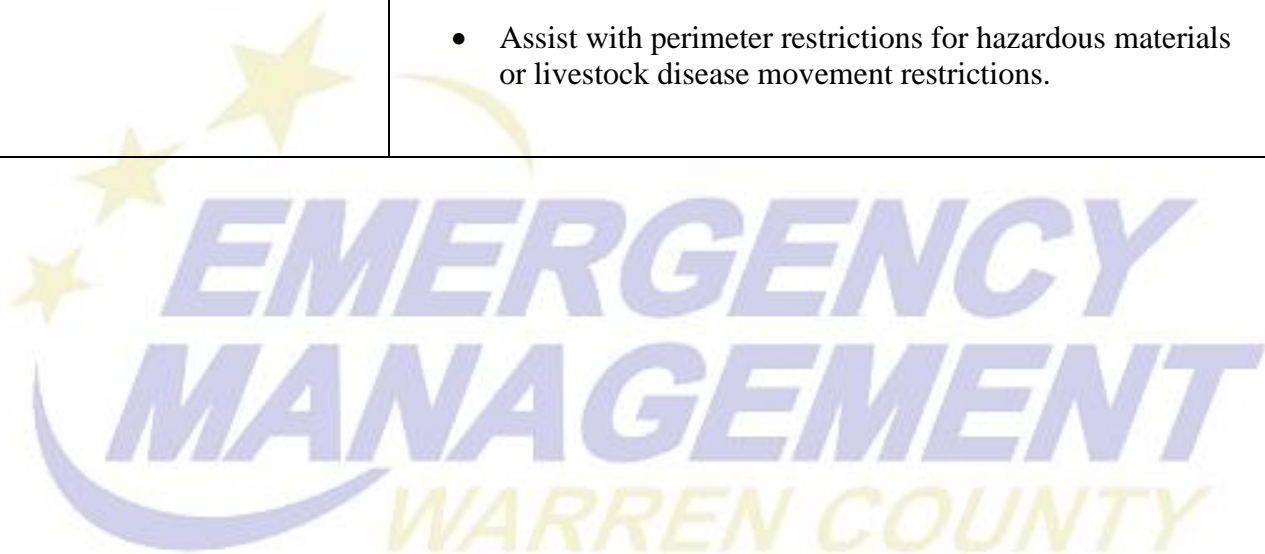


Figure 1: Coordination flow in the Emergency Operations Center and the Incident Command Post.

Primary Agency Functions

Agency	Function
Warren County Emergency Management Agency	<ul style="list-style-type: none"> • Establishes and maintains a Primary and Alternate Emergency Operations Center. • Maintains a current inventory of transportation assets, including transit buses, trolleys, passenger vans, wheelchair equipped buses, and school buses. • Assists with transportation and evacuation public information and communication. • Coordinates transportation assets. • Primary responsibility for organizing and conducting a county evacuation operation. • Provides leadership in coordinating and integrating overall local efforts. • May perform the role of Public Information Officer. • Assesses the situation, validates resource requests, and forecasts response needs.
Warren County Engineer's Office/ Municipal Public Works Departments	<ul style="list-style-type: none"> • Provides additional staff and equipment for use in the event of an evacuation operation. • Responsible for maintaining evacuation routes and providing traffic control devices. • During flooding, they may establish command posts at flood sites and make recommendations to the incident commander or the Emergency Operations Center concerning the evacuation decisions. • Provides appropriate engineering and contracting/ procurement personnel and equipment to assist in emergency removal of debris, demolition, repair of roads and bridges, and temporary repair of essential public facilities, if available. • Coordinate mapping or public notifications/website

	<p>updates with road closures and repair activities.</p> <ul style="list-style-type: none"> • Ensure Law Enforcement Communications Centers, Emergency Operation Centers, and emergency responders are aware of any road closures within their jurisdictions. • May coordinate flood fighting and sandbagging with emergency responders or volunteers. • Coordinate Public Assistance/Infrastructure Damage Assessment. • Assist emergency responders with debris or snow removal for emergency responses. • Assist railroads with rail crossing obstructions or detours. • Assist with perimeter restrictions for hazardous materials or livestock disease movement restrictions.
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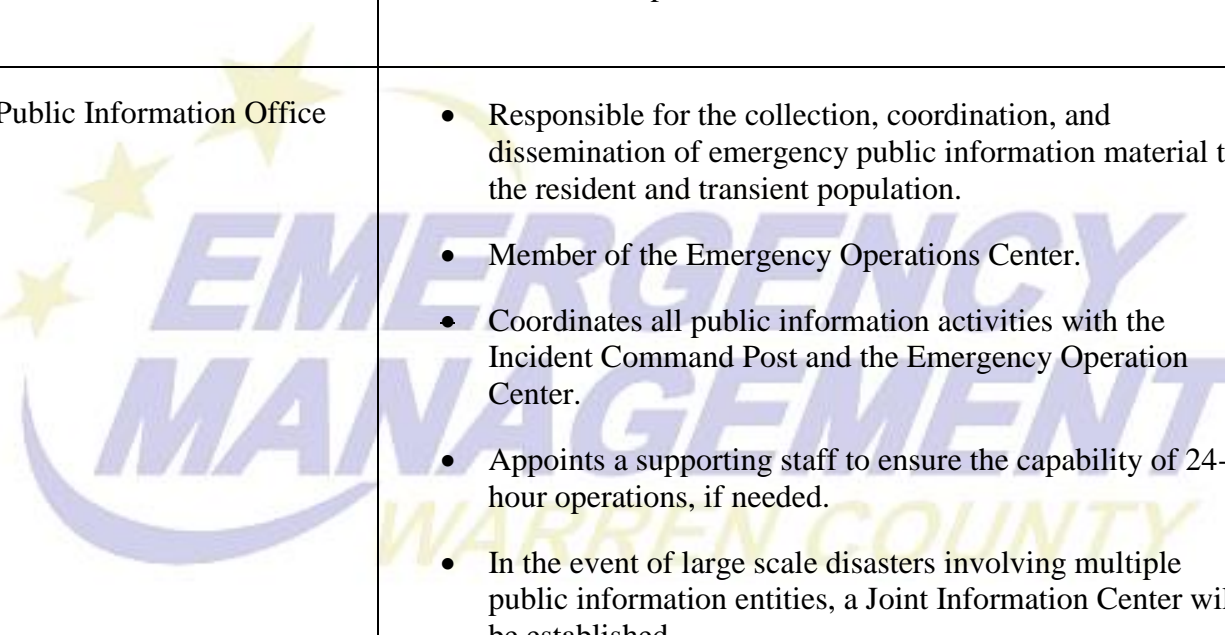


Support Agency Functions

Support Agencies: Support agency representatives will provide technical expertise, personnel, teams and equipment in support of an emergency operation. Personnel assigned in support of the disaster will maintain close coordination with Incident Command Post representative.

Note: Support agencies are not listed in order of priority. They are all in support of the primary agency.

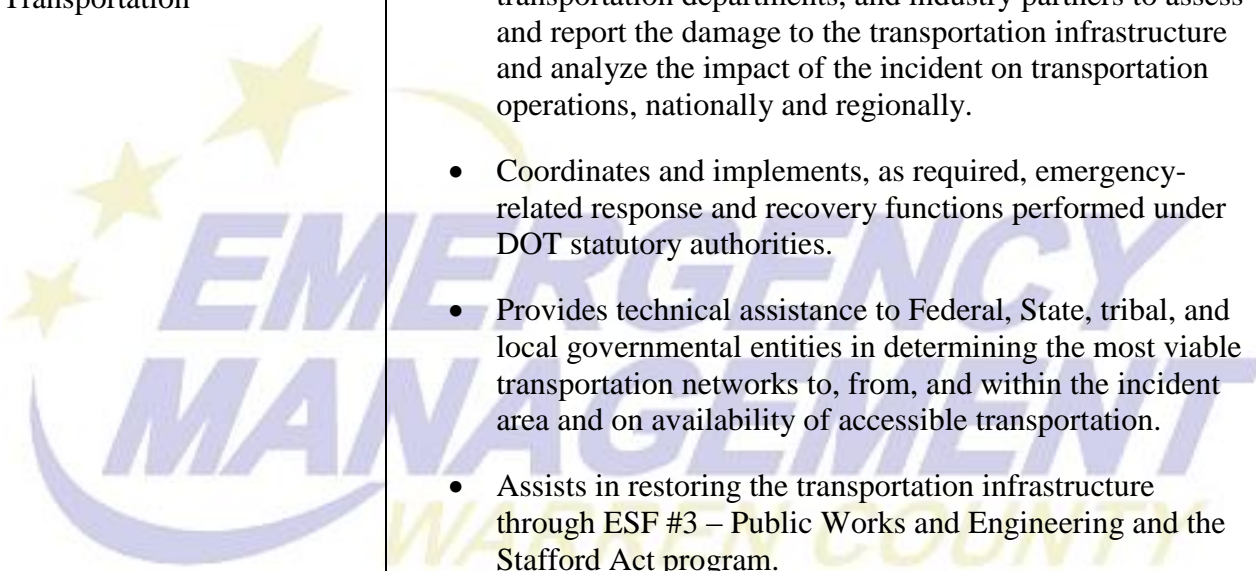
City/County Agencies	Functions
Warren County Communications Center	<ul style="list-style-type: none">• Coordinates mass notifications as needed with the Incident Commander.• Provides information to the public on evacuation routes, shelter sites & other emergency information. Incident Commander must ensure these agencies always have up to date information and know what can be provided to the public.• Routes media requests to the public information officer.
Amateur Radio Emergency Services/ Amateur Radio Civil Emergency Services	<ul style="list-style-type: none">• Provides alternate or additional communications for the Incident Command Post or the Emergency Operations Center when disaster response or recovery operations require communications.
Warren County Conservation and Local Municipal Parks/Recreation Departments	<ul style="list-style-type: none">• Monitors walking trails and bike paths for obstructions or damages.• Assists in damage assessments.
Local Fire Emergency Medical Services Departments	<ul style="list-style-type: none">• Provides emergency medical care and transportation.• Provides emergency medical assistance.• Maintains responsibility for fire security and assistance in warning the public.

	<ul style="list-style-type: none"> • Maintains primary responsibility for fire and hazardous materials scenes.
Local Law Enforcement	<ul style="list-style-type: none"> • Responsible for conducting actual evacuation efforts, for designating evacuation routes, providing traffic and movement control, and establishing security of the evacuated area. • Departmental or local public information officers will also assist in warning the public. • Provides additional personnel and equipment to an evacuation operation, as needed and if available.
Public Information Office	 <ul style="list-style-type: none"> • Responsible for the collection, coordination, and dissemination of emergency public information material to the resident and transient population. • Member of the Emergency Operations Center. • Coordinates all public information activities with the Incident Command Post and the Emergency Operation Center. • Appoints a supporting staff to ensure the capability of 24-hour operations, if needed. • In the event of large scale disasters involving multiple public information entities, a Joint Information Center will be established. • Coordinates a disaster hotline through community service agencies, 411, or volunteers. Ensure those locations have up to date information.
School Transportation Directors	<ul style="list-style-type: none"> • May provide school buses and drivers to support transportation requirements needed during an emergency or an evacuation.

State Agencies	Functions
Civil Air Patrol	<ul style="list-style-type: none"> • May assist in searches for missing or downed airplanes, if needed.
Iowa Department of Natural Resources	<p>Engineering Services Bureau:</p> <ul style="list-style-type: none"> • Designs, in house or through consulting services, and oversees the construction projects for the Department after policies and programs have been created. Some of the services provided include: <ul style="list-style-type: none"> ○ Planning and Development. ○ Engineering Surveys. ○ Professional Engineering and Architectural Design Services. ○ Contract Administration. ○ Project Management and Construction Inspection. ○ Federal Emergency Management Administration and Emergency Response Projects. ○ Consultant Selection and Contract Negotiations. ○ Investigative Reporting.
Iowa Department of Public Safety	<ul style="list-style-type: none"> • Provides additional law enforcement capabilities. • Coordinates traffic information with the Department of Transportation on road conditions/closures hotline for services for public and emergency access. • Provides a teletype service for law enforcement agencies for road closure and detour information. Routes of travel may be identified. • Establishes control points for traffic control, assists in maintaining order, obtains medical help and directs

	<p>emergency vehicles to the proper destination within and around the disaster area.</p>
<p>Iowa Department of Transportation</p>	<ul style="list-style-type: none"> • Provides updated information on road conditions, load bearing capacities and usability to support evacuation or rerouting of traffic. • Maintains road condition/closure website. • Provides equipment and manpower to inspect, maintain or repair roads, and bridges to usable condition. • Personnel may assist in traffic control by erecting barricades, warning lights and signs, or providing manpower. • Responsible for lifting restrictions to facilitate evacuations and clearing State roads post storm or event.
<p>Iowa Homeland Security and Emergency Management</p>	<ul style="list-style-type: none"> • Responsible for the overall emergency coordination of state assistance if a multiple state agency response is required. • Maintains situational awareness and the Common Operating Picture. • Provides logistical support for coordinating mobilization centers/staging areas, transportation of resources, public health and medical elements, disaster fuel contracts, emergency meals, potable water, base camp services, supply and equipment resupply, and use of all State contracts and interagency agreements managed by the Iowa Homeland Security for response operations. • Assists in coordinating transportation to support evacuating patients who are too seriously ill or otherwise incapable of being evacuated in general evacuation conveyances.
<p>Iowa National Guard</p>	<ul style="list-style-type: none"> • At the request of the Governor, mobilizes and deploys available National Guard transportation units to support local governments with available personnel for movement of medical special needs and other missions as needed

	<p>including aero-medical evacuation and medical treatment during an evacuation.</p> <ul style="list-style-type: none"> Provides additional personnel and equipment as needed.
Iowa State University Center for Transportation Research and Education	<p>Bridge Engineering Center:</p> <ul style="list-style-type: none"> Conducts research on bridge technologies to help bridge designers/owners, particularly the Iowa Department of Transportation Office of Bridges and Structures, design, build, and maintain long-lasting bridges.
Federal Agencies	Functions
Department of Agriculture	<p>Forest Service</p> <ul style="list-style-type: none"> Provides transportation assets to when Forest Service resources are the most effective to support the mission, if available. Provides appropriate engineering and contracting/procurement personnel and equipment to assist in emergency removal of debris, demolition, repair of roads and bridges, and temporary repair of essential public facilities, if available.
Department of Defense	<ul style="list-style-type: none"> Provides military transportation capacity from the U.S. Transportation Command (USTRANSCOM). <p>U.S. Army Corps of Engineers</p> <ul style="list-style-type: none"> Provides support in the emergency operation and restoration of inland waterways, ports, and harbors including dredging operations. Assists in restoring the transportation infrastructure.
Department of Homeland Security	<p>Federal Emergency Management Agency:</p> <ul style="list-style-type: none"> Provides timely funding for activation and Stafford Act-

	<p>eligible ESF 1 activities.</p> <ul style="list-style-type: none"> • Involves community members in all-hazards emergency preparedness, planning, mitigation, response, and recovery. <p>Office of Infrastructure Protection:</p> <ul style="list-style-type: none"> • Provides information and assistance concerning the recovery and restoration of transportation critical infrastructure.
Department of Transportation	 <ul style="list-style-type: none"> • Works with primary and support agencies, State and local transportation departments, and industry partners to assess and report the damage to the transportation infrastructure and analyze the impact of the incident on transportation operations, nationally and regionally. • Coordinates and implements, as required, emergency-related response and recovery functions performed under DOT statutory authorities. • Provides technical assistance to Federal, State, tribal, and local governmental entities in determining the most viable transportation networks to, from, and within the incident area and on availability of accessible transportation. • Assists in restoring the transportation infrastructure through ESF #3 – Public Works and Engineering and the Stafford Act program. <p>Federal Aviation Administration:</p> <ul style="list-style-type: none"> • Oversees the safety of civil aviation. • Issues and enforces regulations and standards related to the manufacture, operation, certification, and maintenance of aircraft. • Responsible for the rating and certification of airmen and for certification of airports serving air carriers. • Regulates a program to protect the security of civil aviation. • Enforces regulations under the Hazardous Materials Transportation Act for shipments by air.

- Operates a network of airport towers, air route traffic control centers, and flight service stations, develops air traffic rules, and allocates the use of airspace.
- Provides for the security control of air traffic to meet national defense requirements.
- Constructs or installs visual and electronic aids to air navigation and promotion of aviation safety internationally.
- Regulates and encourages the U.S. commercial space transportation industry.
- Licenses commercial space launch facilities and private sector launches.

Federal Highway Administration:

- Coordinates highway transportation programs to enhance the country's safety, economic vitality, quality of life, and the environment.
- Manages the Federal-Aid Highway Program, which provides federal financial assistance to the States to construct and improve the National Highway System, urban and rural roads, and bridges.
- Provides funds for general improvements and development of safe highways and roads.
- Manages a comprehensive research, development, and technology program.

Federal Lands Highway Program:

- Provides access to and within national forests, national parks, Indian reservations, and other public lands by preparing plans and contracts, supervising construction facilities, and conducting bridge inspections and surveys.

Federal Motor Carrier Safety Administration:

- Primary mission is to prevent commercial motor vehicle-related fatalities and injuries.
- Ensures safety in motor carrier operations through strong enforcement of safety regulations, targeting high-risk

	<p>carriers and commercial motor vehicle drivers; improving safety information systems and commercial motor vehicle technologies; strengthening commercial motor vehicle equipment and operating standards; and increasing safety awareness.</p> <ul style="list-style-type: none"> • Works closely with Federal, state, and local enforcement agencies, the motor carrier industry, labor safety interest groups, and others. <p>Federal Railroad Administration:</p> <ul style="list-style-type: none"> • Promotes safe and environmentally sound rail transportation. • Responsible for ensuring railroad safety throughout the nation. • Employs safety inspectors to monitor railroad compliance with federally mandated safety standards including track maintenance, inspection standards, and operating practices. • Conducts research and development tests to evaluate projects in support of its safety mission and to enhance the railroad system as a national transportation resource. • Conducts public education campaigns on highway-rail grade crossing safety and the danger of trespassing on rail property. <p>The Federal Transit Administration:</p> <ul style="list-style-type: none"> • Assists in developing improved mass transportation systems for cities and communities nationwide. • Helps plan, build, and operate transit systems with convenience, cost and accessibility in mind. While buses and rail vehicles are the most common type of public transportation, other kinds include commuter ferryboats, trolleys, inclined railways, subways, and people movers. • Provides financial, technical and planning assistance, leadership and resources for safe and technologically advanced local transit systems while assisting in the development of local and regional traffic reduction. • Maintains the National Transit library, a repository of
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reports, documents, and data generated by professionals and others from around the country which is designed to facilitate document sharing among people interested in transit and transit related topics.

National Highway Traffic Safety Administration:

- Responsible for reducing deaths, injuries and economic losses resulting from motor vehicle crashes.
- Sets and enforces safety performance standards for motor vehicles and equipment, and through grants to state and local governments enables them to conduct effective local highway safety programs.
- Investigates safety defects in motor vehicles, sets and enforces fuel economy standards, helps states and local communities reduce the threat of drunk drivers, promotes the use of safety belts, child safety seats and air bags, investigates odometer fraud, establishes and enforces vehicle anti-theft regulations and provides consumer information on motor vehicle safety topics.
- Conducts research on driver behavior and traffic safety to develop the most efficient and effective means of bringing about safety improvements.
- Furnishes consumers with a wide range of auto safety information and allows consumers to help identify safety problems in motor vehicles, tires and automotive equipment such as child safety seats.

Pipeline and Hazardous Materials Safety Administration:

- Oversees the safety of shipments of hazardous materials in the United States and the nation's energy that is transported by pipelines.
- Dedicated solely to safety by working toward the elimination of transportation-related deaths and injuries in hazardous materials and pipeline transportation.
- Promotes transportation solutions that enhance communities and protect the natural environment.

Surface Transportation Board:

- Responsible for the economic regulation of interstate

	<p>surface transportation, primarily railroads, within the United States.</p> <ul style="list-style-type: none"> • Ensures that competitive, efficient, and safe transportation services are provided to meet the needs of shippers, receivers, and consumers. • Charged with promoting, where appropriate, substantive and procedural regulatory reform in the economic regulation of surface transportation. • Provides an efficient and effective forum for the resolution of disputes. • Develops, through rulemakings and case disposition, new and better ways to analyze unique and complex problems, to reach fully justified decisions more quickly, to reduce the costs associated with regulatory oversight. • Encourages private-sector negotiations and resolutions to problems where appropriate.
National Transportation Safety Board	<ul style="list-style-type: none"> • Responsible for civil transportation accident investigation. • Investigates and reports on aviation accidents and incidents, certain types of highway crashes, ship and marine accidents, pipeline incidents, and railroad accidents. • Investigates cases of hazardous waste releases that occur during transportation. • Assists the military with accident investigation.

ESF Development, Testing, and Maintenance

Refer to the County Comprehensive Emergency Operations Plan (also known as the “Basic Plan”) for ESF development, testing, and maintenance.



Warren County

Emergency Support Function 3 Public Works and Engineering

June 2011

Review Feb 2016

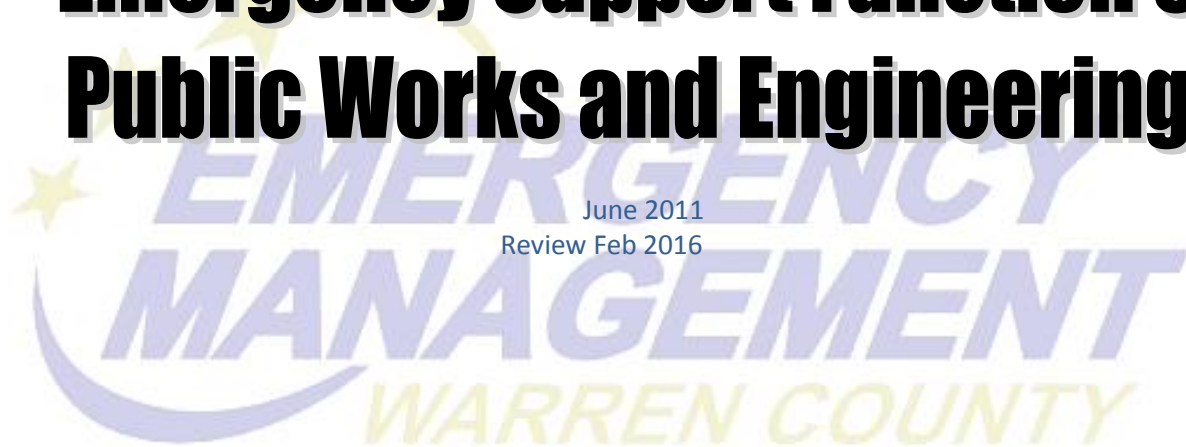


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Attachments:

1. Emergency Response Check List

- a. Preparedness Phase Check List
- b. Response Phase Check List
- c. Recovery Phase Check List

2. FEMA Forms

- 90-091 - Project Worksheets
- 90-091a - Damage Description
- 90-091b - Cost Continuation
- 90-091c - Maps and Sketches
- 90-091d - Photo Sheets
- 90-119 - Project Validation
- 90-122 - Historic Review Assessment
- 90-123 - Force Account Labor Summery
- 90-124 - Materials Summery
- 90-126 - Contract Work Summery
- 90-127 - Account Equipment Summery
- 90-128- Application Benefits Calculation worksheet

3. Public Works Contact List

4. Warren County Debris Management Plan

5. Mutual Aid Agreements

- a. IAMU Mutual Aid Program Region 5 Indianola Municipal Electric Utilities
- b. IAMU Mutual Aid Program Region 5 Indianola Municipal Telecommunications

6. Method of Understanding Brochure

- Iowa Association of Utilities
- Iowa Municipal Utilities
- Carlisle Municipal Utilities
- Indianola Municipal Utilities



Record of Changes

Change Number	Date of Change	Date Entered	Change Made by (Signature)

Primary and Supporting Agencies

ESF Coordinator: Warren County Engineer

Primary Agencies:

Warren County Engineer's Office

City of Carlisle Public Works

City of Hartford Public Works

City of Indianola Public Works

City of Lacona Public Works

City of Martensdale Public Works

City of Milo Public Works

City of New Virginia Hires out Public Works

City of Norwalk Public Works

City of Spring Hill Hires out Public Works

City of St Marys' Hires out Public Works

City of West Des Moines Public Works

Support Agencies:

City/County

Warren County Emergency Management Agency

E911 Communications

Amateur Radio Emergency Services/ Amateur Radio Civil Emergency Services

Warren County Environmental Health

Warren County Geographic Information Systems

Warren County Planning and Zoning

Warren County Sheriff

City of Planning and Zoning

Carlisle, Hartford, Indianola, Lacona, Martensdale, Milo, Norwalk, St. Marys'

City of Police Departments

Carlisle, Des Moines, Indianola, Norwalk, West Des Moines

City Parks and Recreation

Carlisle, Hartford, Indianola, Lacona, Martensdale, Milo, Norwalk, St Marys',

Warren County Rural Water

Ackworth, Cumming, Hartford, Lacona, Milo, New Virginia, Spring Hill, Sandyville, St Marys'

City of Water Superintendent

Carlisle, Indianola, Norwalk, Des Moines, West Des Moines

Electric Utility/Cooperative

Clark Rural Electric Coop REC , Mid America Energy, Alliant Energy, Pella Coop REC.

Municipal Utilities

Carlisle and Indianola

Emergency Medical Services

Carlisle, Des Moines, Hartford, Indianola, Lacona, Martensdale, Milo, New Virginia, Northern Warren, Norwalk, Pleasantville, St Marys' West Des Moines,

State

Iowa Department of Natural Resources

Iowa Department of Public Safety

Iowa Department of Transportation

Iowa Homeland Security and Emergency Management

Iowa National Guard

Federal

Department of Agriculture

Department of Defense

Department of Energy

Department of Health and Human Services

Department of Homeland Security

Department of Transportation

Environmental Protection Agency

Nuclear Regulatory Commission



Introduction

Purpose

Emergency Support Function (ESF) 3 – Public Works and Engineering assists the Warren County Emergency Management Agency by coordinating and organizing the capabilities and resources of the county during response and recovery from a disaster.

ESF 3 evaluates infrastructure damage and coordinates emergency debris clearing of primary and secondary roads within the county and can also coordinate emergency contracting, building inspections, engineering services, and demolitions.

Scope

ESF 3 is structured to provide public works and engineering-related support for the changing requirements of domestic incident management.

Activities within the scope of this function include:

Inspection and Condemnation:

- Inspection of buildings and structures following a disaster and, if necessary, condemning them and insuring destruction in a timely manner.
- Inspecting roads and bridges to insure they are safe for use after a disaster.
- Conducting pre-incident and post-incident assessments of public works and infrastructure.
- Providing emergency repair of damaged public infrastructure and critical facilities.

Debris Removal and Road Clearance:

- Removal of debris from public roadways, railroads, airstrips, etc., critical for emergency vehicles or repair crews, passenger travel, and commercial vehicles.
- Handling of problems arising from the generation, accumulation, and disposal of debris following a disaster.

Potable Water and Wastewater Systems

- Restoration of potable water and wastewater disposal capabilities following a disaster.
- Executing emergency support for life-saving and life-sustaining services.
- Providing technical assistance to include engineering expertise, construction management, and contracting.

Policies

Federal Government

Federal public works and engineering support is provided when there is a need for additional resources or capabilities to support and sustain the response and initial recovery. During large-scale events, all levels of government and the private sector will take proactive actions to respond, anticipating resources that may be required. Resources and capabilities can also be provided when other departments or agencies within the Federal Government require assistance.

State

When activated to respond to an incident, the primary agencies for ESF 3 develop work priorities in cooperation with State, tribal, county, and/or local governments and in coordination with the Federal Coordinating Officer and/or the Federal Resource Coordinator. State, tribal, county, and local mutual aid and assistance networks facilitate the sharing of resources to support response and recovery.

Private Sector

The private sector owns or operates a large portion of the Warren County's infrastructure and is a partner and/or lead for the rapid restoration of infrastructure-related services. Through ongoing planning and coordination, the private sector provides critical details for incident action planning and decision making processes during an incident. Also, private-sector mutual aid and assistance networks facilitate the sharing of resources to support response and recovery.

County, Tribal and Local Governments

County, tribal, and local governments are responsible for their own public works and infrastructures and have the primary responsibility for response and recovery. Local authorities are responsible for obtaining required waivers and clearances related to ESF 3 support.

Situations and Planning Assumptions

Situations

- The Warren County Engineer's Office has the debris clearance responsibility for the unincorporated areas. The Iowa Department of Transportation is responsible for debris clearance on interstates and state highways.
- Warren County is subject to a number of hazards which could result in the disruption of utility services, restrict or limit the movement of the resident population, and/or have an effect on the safety and welfare of county residents.
- Potable water may not be available due to drought, hazardous materials spills, severe weather, or mechanical failure. Receipt and distribution of bottled water may be required.
- A catastrophic incident could seriously cripple the county making potable water extremely scarce. Public and private water usage may be curtailed or otherwise cease to operate due to damage or other emergency conditions.
- Public and private wastewater and sewer systems usage may be curtailed or otherwise cease to operate due to damage or other emergency conditions.
- The return of untreated consumed water to the ground water supply can contaminate this supply and makes converting back to potable water uneconomical.

Planning Assumptions

- Rapid damage assessment of the disaster area will be necessary to determine potential workload.
- Disposal of materials from debris clearance and demolition activities will be strictly in accordance with applicable rules and regulations, unless emergency environmental waivers are granted.
- A priority road clearing list has been prepared to insure that critical roads are cleared first. Critical roadways are those roads that must be cleared to allow search and rescue teams into damaged areas; to open access to hospitals, utilities, and emergency response agencies; and to permit damage assessment teams to conduct their surveys.
- Equipment and fuel are staged at pre-determined locations to minimize travel time to the critical roadway locations.
- Debris clearance teams have been identified and will deploy to their respective areas of responsibility as soon as possible after the storm has passed.
- Coordination of debris clearance efforts and mutual assistance between levels of government will be conducted at the Warren County Emergency Operations Center.

- The continued operation of utility services throughout the county is essential for effective and efficient response and recovery actions to a disaster or emergency situation.
- The primary responsibilities of utility companies will be the restoration and maintenance of utility services.
- Utility companies will cooperate with and assist government services.
- Assistance from outside the county will be available through mutual aid and other existing agreements.
- Hazardous materials incidents may utilize many public works services for containment of the materials.



Concept of Operations

General

The basic operational concept is that the various Public Works and County Engineering departments and agencies within the ESF 3 function will continue their normal day-to-day responsibilities regardless of the emergency or disaster situation.

Priority actions will be taken to restore interrupted services and provide for movement of vehicular traffic. In the event a shelter upgrading program is established under a national emergency mode, all services under the ESF 3 function will support the program.

Restoration and Recovery:

- Coordinate the repair and restoration of critical facilities for water distribution, wastewater, and solid waste facilities.
- Coordinate with ESF 8 – Public Health and Medical Services for use of Points of Distribution/Disbursing throughout the affected area for distributing emergency water supplies.
- Coordinate with the private sector for sanitation services such as portable toilets or other available sanitation services to both the public and work areas.
- Restore traffic routes; provide priority service to roads and streets designated as primary evacuation routes.
- Make emergency repairs on streets, bridges, viaducts, and other structures.
- Coordinate with private partners for emergency power.
- Assist with the transportation of equipment and potable water.
- Make emergency repairs and restore vital utility services.
- If weather conditions dictate, early implementation of existing snow removal plans will be accomplished. Planning for snow removal will include provisions to expand snow removal activity to facilitate movement of vehicles supporting emergency operations on streets not normally included in the plan.
- Establish detour routings and resources for traffic control.
- Insure that adequate supplies of potable water are available and identify additional state and federal supplies or resources.

Debris Removal and Management

- Identify and assess primary transportation routes in the county.

- Prioritize primary routes that need immediate repair/restoration and debris removal.
- Identify resources available for repairing and restoring primary routes and for evacuation of citizens, if needed.
- Coordinate available traffic control equipment and personnel.
- Clear fallen debris from streets and roads, giving priority to emergency routes for law enforcement, fire departments, and emergency medical services.
- Extend and/or expand services to the public for garbage disposal, burning ordinances, and placement of public dumpsters.
- Coordinate burning debris with the Iowa Department of Natural Resources.

Flooding

- Provide transportation for the delivery of sand and sandbags, emergency dike/levee repair, construction of temporary dikes, etc.
- Monitor conditions of local dams and make repairs if necessary.
- Alert the emergency response personnel to make necessary notifications.
- Inspect bridges and approaches to bridges after the water subsides to determine safety of use.

Damage Assessment

- See ESF 14 – Community Recovery and Mitigation.

Radioactive or Hazardous Materials Incidents

- See ESF 10 – Hazardous Materials.

Public and Private Utility Companies

- Make emergency repairs and restore vital utilities.
- Provide emergency power, with priority to the Emergency Operations Center and critical facilities.
- Conduct inspections required for restoration of service and replace damaged or destroyed utilities equipment.
- Restore utilities to critical and essential facilities.
- Private utility companies will be responsible for restoration of services within their service area(s).

Organization

ESF 3 – Public Works and Engineering is under the direction of the County Engineer. ESF 3 will be responsible for emergency/disaster operations within their normal operational areas. Specific operational procedures will be outlined in existing departmental emergency plans.

Roles and Responsibilities

ESF Coordinator

Each coordinator has ongoing responsibilities throughout the preparedness, response, recovery, and mitigation phases of incident management. The role of the coordinator is carried out through a “unified command” approach as agreed upon collectively by the designated primary agencies.

Responsibilities of the coordinator include:

- Pre-incident planning and coordination.
- Maintaining ongoing contact with primary and support agencies.
- Conducting periodic meetings and conference calls.
- Coordinating efforts with corresponding private-sector organizations.
- Coordinating activities relating to catastrophic incident planning and critical infrastructure preparedness as appropriate.
- Activates appropriate support agencies.
- Coordinates government logistical and fiscal activities supporting associated priorities and activation.
- Plans and supports regular meetings with the primary and support agencies related to preparedness, response, and recovery activities.
- Ensures support agencies are informed and involved in all meetings.

Primary Agencies

When activated in response to an incident, the primary agency is responsible for:

- Conducting response operations within their functional area for an affected area.
- Providing staff for the operations functions at fixed and field facilities.
- Notifying and requesting assistance from support agencies through the Emergency Operations Center.
- Managing mission assignments and coordinating with support agencies, as well as appropriate local jurisdictions through the Emergency Operations Center.

- Working with appropriate private-sector organizations to maximize use of all available resources.
- Supporting and keeping all organizational elements informed of operational priorities and activities.
- Procuring goods and services as needed.
- Ensuring financial and property accountability for activities.
- Planning for short-term and long-term incident management and recovery operations.
- Maintaining trained personnel to support interagency emergency response and support teams.
- Coordinating media interviews, if allowed, with the Public Information Officer.

Support Agencies

When activated in response to an event, threat, or incident, support agencies are responsible for:

- Conducting support operations using their own authorities, subject matter experts, capabilities, or resources.
- Participating in planning for short-term and long-term incident management and recovery operations.
- Assisting in the conduct of situational assessments.
- Furnishing available personnel, equipment, or other resource support as requested by the primary agency.
- Providing information or intelligence regarding their agency's area of expertise.

Organizational Structure

The National Incident Management System will be utilized during incidents. See the Warren County Basic Plan - Concept of Operations.

The size of the public works operation will determine if an Emergency Operations Center is needed. For disasters, a unified command structure may be implemented.

An effective span of control is maintained by consolidating agencies with emergency responsibilities into groups with an internal management structure. Each of the branches is consolidated in the Emergency Operations Center during activation to insure coordination among the various organizations.

Most primary and supporting agencies have only one or two personnel assigned to the Emergency Operations Center during emergencies. Each is assigned a place on the floor plan that corresponds to the ESF in which his/her primary responsibilities lie.

The Emergency Operations Center Manager will staff the Emergency Operations Center as needed depending on the size and scope of operation. The Emergency Operations Center will support the Incident Commander and assist with resource prioritization and resource management.

Information and mission assignments flow between the branches through the Section Chiefs and from the Section Chiefs through the Emergency Operations Center Director.

This ensures that Emergency Management is able to maintain an accurate assessment of the disaster situation and is able to develop short-range and long-range planning guidance for use by other potentially affected ESFs within the Emergency Operations Center. See ESF 5 – Emergency Management.



See figure below for the coordination flow in Incident Command Post and the Emergency Operations Center.

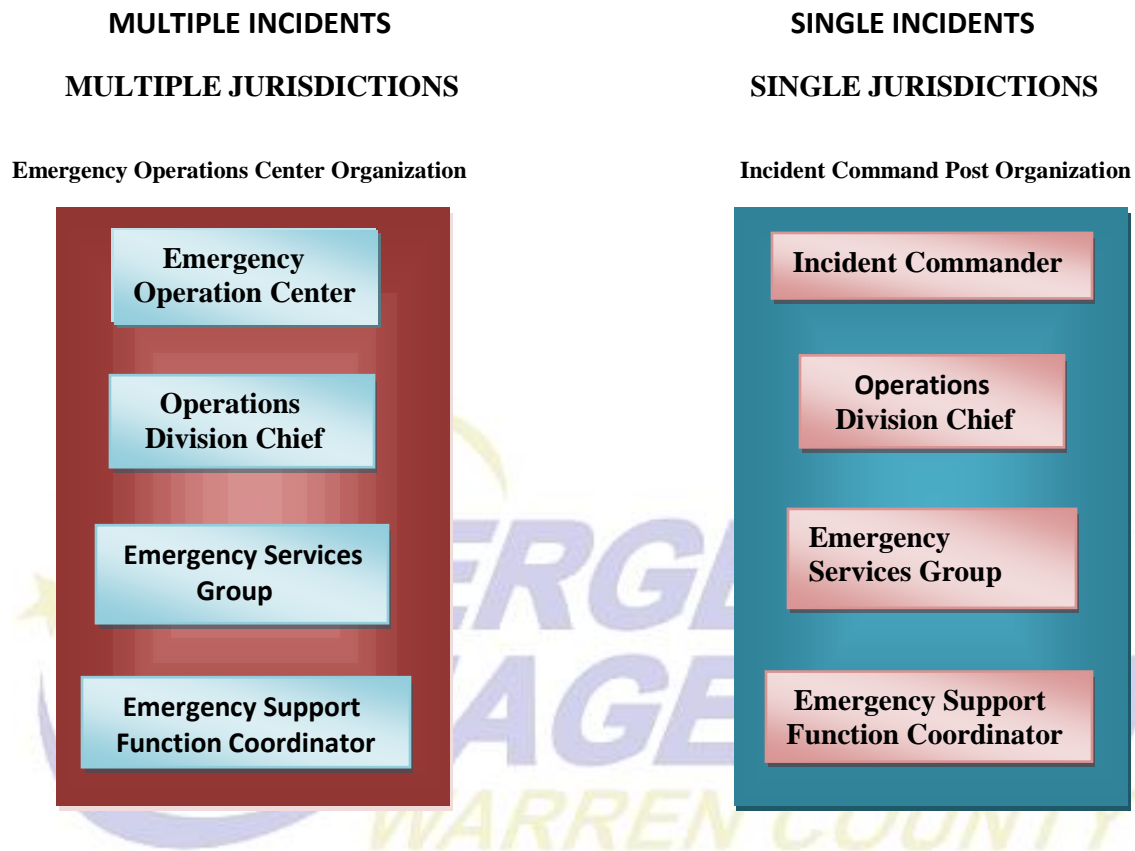


Figure 1: Coordination flow in the Emergency Operations Center and the Incident Command Post.

Primary Agency Functions

Agency	Function
Warren County Emergency Management Agency	<ul style="list-style-type: none"> • Provides leadership in coordinating and integrating overall county efforts. • May perform the role of Public Information Officer. • Assess the situation, validates resource requests, and forecasts response needs. • Assists in establishing priorities and coordinating the transition of response operations with recovery activities based on incident information and the availability of resources that can be appropriately applied. • Assists local jurisdiction with disaster declaration process.
Warren County Engineer's Office	<ul style="list-style-type: none"> • Assists with damage assessment and setting priorities for road clearance to better assist ESF 9 with search and rescue operations. • Maintains a list of construction contractors and engineering consulting firms who would be able to assist with infrastructure repairs after a disaster. • Responsible for maintaining evacuation routes and providing traffic control devices. • During flooding, may establish command posts at flood sites and make recommendations to incident commander or the Emergency Operations Center concerning the evacuation decisions.
City Public Works	<ul style="list-style-type: none"> • Works in coordination with the Warren County Engineer's Office. • Assists with damage assessment and setting priorities for road clearance to better assist ESF 9 with search and rescue operations. • Maintains a list of construction contractors and engineering consulting firms who would be able to assist

	<p>with infrastructure repairs after a disaster.</p> <ul style="list-style-type: none"> • Responsible for maintaining evacuation routes and providing traffic control devices. • During flooding, may establish command posts at flood sites and make recommendations to incident commander or the Emergency Operations Center concerning the evacuation decisions. • May coordinate emergency water distribution, as needed.
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Support Agency Functions

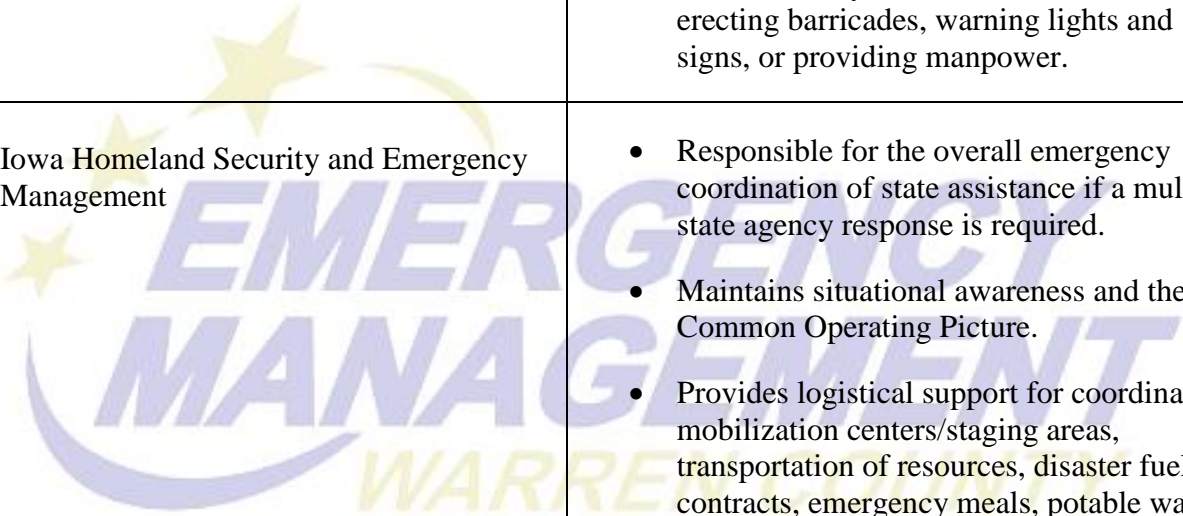
Support Agencies: Support agency representatives will provide technical expertise, personnel, teams and equipment in support of an emergency operation. Personnel assigned in support of the disaster will maintain close coordination with Incident Command Post representative.

Note: Support agencies are not listed in order of priority. They are all in support of the primary agency.

City/County Agencies	Functions
E911 Communications	<ul style="list-style-type: none">• Coordinates mass notifications as needed with the Incident Commander.• Provides emergency information to the Incident Commander and ensures agencies always have up to date information and know what can be provided to the public.• Routes media requests to the public information officer.
Amateur Radio Emergency Services Warren County ARES - Armature Radio Emergency Services	<ul style="list-style-type: none">• Provides alternate or additional communications for the Incident Command Post or the Emergency Operations Center.
Warren County Geographic Information Systems	<ul style="list-style-type: none">• Provide maps to emergency responders.• Coordinator is responsible for managing the geographic data sets and resources maintained at the county.• Partners with Inspection, Planning and Zoning, Communication and Emergency Medical Services and Emergency Services.
Warren County Planning and Zoning	<ul style="list-style-type: none">• Identify sites used for temporary debris management or solid waste sites.


City Planning and Zoning	<ul style="list-style-type: none"> Identify sites used for temporary debris management or solid waste sites.
City Parks and Recreation	<ul style="list-style-type: none"> Work with Planning and Zoning to identify sites used for temporary debris management or solid waste sites. Provide additional manpower to support traffic control.
City Police Department	<ul style="list-style-type: none"> Responsible for conducting actual evacuation efforts, for designating evacuation routes, providing traffic and movement control, and establishing security of the evacuated area. Departmental or local public information officers will also assist in warning the public. Provides the Emergency Operations Center, Command Post, and Incident Commander with the communications link.
City Water Superintendents	<ul style="list-style-type: none"> Support emergency repair and restoration of critical water infrastructure systems, including drinking water distribution and wastewater collection systems. May coordinate emergency water distribution, as needed.
Electric Utility/Cooperative	<ul style="list-style-type: none"> Effects emergency repair of damaged private and public critical electric power infrastructure/facilities. Make recommendations to ESF 3 Coordinator in the Emergency Operations Center concerning the temporary or emergency electric power decisions.
Emergency Medical Services	<ul style="list-style-type: none"> Provides emergency medical care and transportation. Provides emergency medical assistance for

	public works personnel.
Public Information Office	<ul style="list-style-type: none"> • Responsible for the collection, coordination, and dissemination of emergency public information material to the resident and transient population. • Member of the Emergency Operations Center. • In the event of large scale disasters involving multiple public information entities, a Joint Information Center will be established. • Coordinates a disaster hotline through community service agencies, 211, or volunteers. Ensure those locations have up to date information.
State Agencies	Functions
Iowa Department of Natural Resources	<ul style="list-style-type: none"> • Provides technical assistance for critical water infrastructure systems, including drinking water distribution and wastewater collection systems, and hazardous materials.
Iowa Department of Public Safety	<ul style="list-style-type: none"> • Provides additional law enforcement capabilities. • Provides security for shelters, if required. • Coordinates traffic information with the Department of Transportation on road conditions/closures hotline for services for public and emergency access. • Provides a teletype service for law enforcement agencies for road closure and detour information. Routes of travel may be identified. • Establishes control points for traffic control, assists in maintaining order, obtains medical help, and direct emergency vehicles to the

	proper destination within and around the disaster area.
Iowa Department of Transportation	<ul style="list-style-type: none"> • Provides updated information on road conditions, load bearing capacities and usability to support evacuation or rerouting of traffic. • Maintains road condition/closure website. • Provides equipment and manpower to maintain or repair roads and bridges to usable condition in support of an evacuation. • Personnel may assist in traffic control by erecting barricades, warning lights and signs, or providing manpower.
Iowa Homeland Security and Emergency Management	 <ul style="list-style-type: none"> • Responsible for the overall emergency coordination of state assistance if a multiple state agency response is required. • Maintains situational awareness and the Common Operating Picture. • Provides logistical support for coordinating mobilization centers/staging areas, transportation of resources, disaster fuel contracts, emergency meals, potable water, base camp services, supply and equipment resupply, and use of all State contracts and interagency agreements managed by the Iowa Homeland Security for response operations.
Iowa National Guard	<ul style="list-style-type: none"> • At the request of the Governor, mobilizes and deploys available National Guard units to support local governments with available personnel for equipment. • At the request of the Governor, provides support to the Iowa Department of Natural Resources to assist County governments with debris removal and additional

	<p>personnel.</p> <ul style="list-style-type: none"> Provides additional personnel and equipment as needed.
Federal Agencies	Functions
Department of Agriculture	<ul style="list-style-type: none"> Provides engineering and contracting/ procurement personnel and equipment to assist in emergency removal of debris, demolition, temporary protection of roads and bridges, temporary protection of essential public facilities, water supply, and sanitation, if available. Provides technical personnel to evaluate damage to water control facilities. The Natural Resources Conservation Service is the regional contact for this support.
Department of Defense	<p>Army Corps of Engineers</p> <ul style="list-style-type: none"> Provides assistance in debris removal and disposal; emergency protective measures; and the repair, replacement, or restoration of disaster-damaged public facilities and the facilities.
Department of Energy	<p>National Nuclear Security Administration:</p> <ul style="list-style-type: none"> Enables radiologically contaminated debris management activities by coordinating and/or providing resources, assessments, data, expertise, technical assistance, monitoring, and other appropriate support.
Department of Health and Human Services	<ul style="list-style-type: none"> Supplies engineering and environmental health personnel to assist, in conjunction with the Environmental Protection Agency (EPA), in assessing the status of water, wastewater, and solid-waste facilities. Provides guidance related to health

	<p>problems associated with hazardous materials.</p> <ul style="list-style-type: none"> Assists in determining the suitability for human consumption of water from local sources.
Department of Homeland Security	<p>Office of Infrastructure Protection</p> <ul style="list-style-type: none"> Supports ESF 3 infrastructure protection and mitigation missions by providing infrastructure risk and vulnerability assessments in response to actionable intelligence and other information. Through the Infrastructure Liaison, provides situational awareness and prioritized recommendations concerning the recovery and restoration supported by this ESF.
Department of Transportation	<ul style="list-style-type: none"> Provides technical expertise and assistance for repair and restoration of transportation infrastructure (e.g., highways, bridges, tunnels, transit systems, port facilities, and railways) and provides advice and assistance on the transportation of contaminated materials. Provides engineering personnel and support to assist in damage assessment, structural inspections, debris clearing, and restoration of the Nation's transportation infrastructure. Administers special funding that can be used for repair or reconstruction of major highway facilities as well as grant programs for transit systems and railroads that could be used for repair and rehabilitation of damaged infrastructure.
Environmental Protection Agency	<ul style="list-style-type: none"> Conducts infrastructure protection activities for drinking water and water treatment agencies. Assists in identifying critical water and wastewater needs, including personnel,

	<p>electrical power, and treatment chemicals.</p> <ul style="list-style-type: none"> • Assists, in conjunction with State/tribal primacy agencies and permitting authorities, in determining the operating status of water and wastewater systems. • Provides assistance to State solid waste agencies regarding municipal solid waste landfills and construction and demolition waste landfills. • Provides technical assistance for nonhazardous waste management, including debris management and recycling/reuse opportunities. • Assists State solid waste agencies with assessments of staging/storage areas, solid waste facilities, and wastewater facilities; environmental sampling and monitoring; and inspections, resources, data, and other support as appropriate. • Identifies locations of, and provides safety guidance for, areas affected by hazardous materials. • For chemical, biological, and radiological weapons of mass destruction incidents, coordinates with ESF 3 on management of contaminated debris and demolition. • Assists in investigation and intelligence analysis for hazardous materials incidents involving contaminated water and wastewater systems, pursuant to existing EPA statutory authorities. • Provides expertise on waste and debris disposal options.
<p>Nuclear Regulatory Commission</p>	<ul style="list-style-type: none"> • Assists radiological contaminated debris management activities by coordinating and/or providing resources, assessments, data, expertise, technical assistance, monitoring, and other appropriate support.

Other	
Public and Private Utilities	<ul style="list-style-type: none"> • Provide emergency repair of damaged private and public critical infrastructure/ facilities (temporary power, emergency water, sanitation systems, communications systems etc.) and support restoration of critical water infrastructure systems, including drinking water distribution and wastewater collection systems.
Voluntary Organizations Active in Disaster	<ul style="list-style-type: none"> • Provide voluntary assistance to support various activities such as debris clearance and temporary roof repair, if needed.



ESF Development, Testing, and Maintenance

Refer to the Warren County Basic Plan for ESF development, testing, and maintenance.



Warren County Emergency Management Commission

Quarterly Meeting Minutes

Jan 19, 2016 at 17:30 hours

Warren County Annex Conference Room

Roll Call and Introductions

"See sign in sheet".

No Public present

Meeting Called to Order

Commission Chair Sheriff Vos called meeting to order at 17:35 hrs.

Review Agenda

Commission reviewed Agenda.

Motion to approve the agenda made by Mayor Becker and motion seconded by Mayor Ferin

Motion Passed by voice vote of all "Ayes"

Open Public Budget Hearing

Public hearing on the proposed FY17 Commission Budget at 5:39.

There was no public present at this time. The Chair explained the wage increase for Troy to the commission. Supervisor Shull was greatly opposed to giving Troy a wage increase other than the cola of 2.5% that the rest of the county employees would get in July of 2016. Supervisor Shull said that Supervisor Dean Yordi that is a member of the 911 board says that Doug McCasland wages should be the same and to follow the same County Wage metrics. Shull wanted to wait until the E911 Service Board held their meeting next week to see what they recommend Wage increase for Doug McCasland. Mayor Becker and Chief TeKippe stated that Troy is an employee of the Commission not the E911 Service Board. We as the Commission make the decisions on wages and the direction of our employee. Sheriff stated that he recommends raising Troy's wage from Pay grade 11 Step 10, increase to Pay Grade 11 Step 14, plus a county cola of 2.5% starting July 1 2016.

Sheriff will contact Stephanie (Budget Director) and give her this information.

Supervisor Shull wanted it stated that he "disagrees" with any wage increase for Troy.

No Further discussions so Chair aske to close the Public Commission Budget for FY17. Supervisor Shull made the motion to close the Public Commission Budget Hearing and the motion was seconded by Councilman Gray. Motion passed with a voice vote of all Ayes.

Budget Hearing Closed at 5:49 pm.

Open regular Commission quarterly meeting at 5:50pm.

Review previous meeting minutes from October 20, 2015

Commission received the previous meeting minutes by email prior to commission meeting.

Mayor Ferin motioned to approve previous meeting minutes. Mayor Becker seconded the motion.

Motion Passed with a voice vote of all "Ayes"

Review FY15 Budget Expenditures

Commission reviewed FY16 Budget October – January 12, 2016 at 42.36%.

Commission discussed that the FY16 invoice has not been paid yet. Supervisor Shull advised that the invoice is on his desk. Commission also commented and any other Mayor that would like to be involved in the budget workshop.

New Business

FY17 Budget Proposal

Commission reviewed the FY17 budget with Troy's wage increase and to use a 3rd party vender for the updating county hazard mitigation plan a cost of approx. \$40,000. After some discussion about wage increase for Troy. The Commission decided to move Troy's wage up from: Pay Grade 11 Step 10 to increase: Pay Grade 11 Step 14 plus the 2.5% cola from the county starting July 1st 2016.

Discussion: Supervisor Shull said that he would see if the Board of Supervisors would approve at their next meeting. Supervisor Shull stated that Dean Yordi wanted both offices to stay the same wage. Mayor Shaw and Mayor Ferin stated that this budget is the commission budget not the Supervisors'. The bottom line of the Emergency Management Commission budget did not change from 2016. To Compare or stay the same wages with the E911 Service Board employee, we divided up the original office to make 2 offices with 2 different bylaws. The commission does not control E911 Employee and E911 Service Board does not control emergency management. We decided to keep Troy and Doug the same at the time of division of the departments, not permanently. The rolls of the two departments are completely different. The 28E Agreement between the offices are to support each office as needed and take call during evenings, weekends, absences and holidays.

Mayor Shaw motioned to approve the FY17 Budget. Motion seconded by Mayor Becker. A Voice Vote taken. 10 Ayes and Supervisor Shull Voted NO. Motion passed by the majority.

Review Commission Bylaws

Commission looked over 2013 Bylaws of the Commission. There was no discussion. Commission chose to keep as presented.

Hazard Mitigation Plan

Troy stated that in order to have a FEMA approved Plan, the commission needed to have an 3rd party vender update our existing Hazard Mitigation Plan. Homeland Security Grant application has been sent in and on a waiting list. The application was for \$30,000 and after administrative costs from the state taken out grant would be \$22,500.

Troy asked if he could send out a RFP for Venders to update our Hazard Mitigation Plan.

Councilman Gray motioned to move forward and send out RFP and to pick a vender to update Warren County Hazard Mitigation Plan. Motion seconded by Mayor Ferin.

Voice vote taken of all Ayes. Motion Approved.

Commission FY16 Invoice

Troy has turned in the Invoice for Commission Budget first week of January 2016.

Supervisor Shull stated that the 2016 Commission Invoice is on his desk.

Troy asked how we should turn in the invoice. July, Jan, quarterly or bi-annually. Some discussion Troy asked Supervisor Shull how about Aug and February. No decisions made at this time.

Basic Plan Part C Recovery

Troy Stated that after a Presidential Disaster Proclamation each County that is involved has 180 days to review and update Part C of the County Basic Plan. Commission looked over the plan and a Motion by Mayor Randleman to approve County Basic Plan Part C Recovery. Motion seconded by Mayor Ferin. A voice vote of all Ayes Taken. Motion Passed.

Old Business

Emergency Management Performance Grant (EMPG)

The FFY15 EMPG grant has paid out the first 3 quarters of the FFY15. Troy finalize the 4th quarter documentation and the commission should receive the final payout for FFY15 EMPG in the next month or so.

EMPG FFY16 Filled out the NOI for the Grant using a new online system called **MB3** through Homeland Security. Troy attended MB3 Training in Creston Iowa with Trisha Boggs and numerous other EM Coordinators from SW Iowa.

Coordinators Report

- **Upcoming Events**
 - Polar Plunge
 - Hazard Mitigation Training for Emergency Managers

Communications from the Commission

Directed Troy, to proceed with the RFP to publish for Hazard Mitigation Planning Grant. Have County Attorney Review the RFP before Publishing.

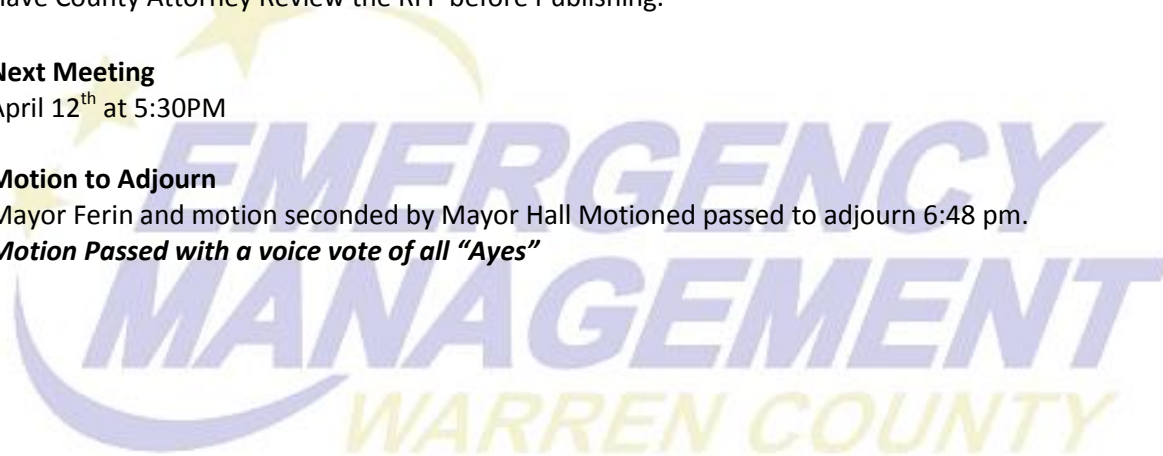
Next Meeting

April 12th at 5:30PM

Motion to Adjourn

Mayor Ferin and motion seconded by Mayor Hall Motioned passed to adjourn 6:48 pm.

Motion Passed with a voice vote of all "Ayes"



From: Martha Miller Johnson
To: [Cownie, Frank](#)
Subject: Waterbury Neighborhood Association invitation
Date: Monday, January 08, 2018 1:57:28 PM

Mayor Cownie,
Hello. I am writing to invite you to the Waterbury Neighborhood Association's annual meeting this year at 3 pm on Sunday, Feb. 18 in the Greenwood Room at Plymouth Church. We would love to have you speak for about 10 minutes giving a general overview of what's going on in the city these days.

Please let me know if you can make it!

Kind regards,
Martha Miller Johnson

I donate 5% of my fee in your name to the charity of your choice.

Download my [mobile app](#) to view all homes for sale!

Martha Miller Johnson | Realtor®

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1401 50th Street, Suite 105 | West Des Moines, IA 50266

Cell: 515/480-1583

Martha.millerjohnson@cbdsm.com

Marthamillerjohnson@gmail.com

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From: David Adelman
To: b.potter@cedar-rapids.org; bkindred@city.ames.ia.us; bob@rescottco.com; bobanncamp@aol.com; bpadmore@sioux-city.org; ctymgr@cityofdubuque.org; David Adelman; fcownie@mac.com; gaer.steve@rrrealty.com; geoff-fruin@iowa-city.org; j.pomeranz@cedar-rapids.org; Lester, Jeffrey D.; Warburton, Joyce M.; larry@llmurphy.com; michelle.weidner@waterloo-ia.org; McCroskey, Monica J.; mwalsh@councilbluffs-ia.gov; r.corbett@cedar-rapids.org; rbwade@justice.com; rdbuol@cityofdubuque.org; rgehl@cityofdubuque.org; ron@roncorbett.com; Sanders, Scott E.; tgoodman@cityofdubuque.org; tomwcope@msn.com; a.charipar@cedar-rapids.org; Ashley Monroe; Corri Spiegel; Dan Jordet; Eleanor Dilkes; Frank J. Chiodo; Cownie, Frank; Gary Grant; Schulte, Jen L.; Lindsey McCune; Mallory Mertitt; Matt Hinch; Mayor Ann Campbell; Mayor Frank Klipsch; Mayor Jim Throgmorton; Mayor Quentin Hart; Robert Palmer; Sara Allen; Simon Andrew; Tom Hadden; Wendy Schultz
Subject: Work Comp Notes from ABI
Date: Friday, August 18, 2017 11:00:58 AM
Attachments: [Minutes Workplace Product Safety 8.16.17.doc](#)

Metro Co members-

Attached are draft minutes from a work comp meeting at ABI that I thought the cities may be interested in reviewing. Thank you

David

David R. Adelman | Principal & Director



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Houston | Jackson | Richmond | Springfield | Washington

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Des Moines Iowa 50309

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From: Jeb Brugmann
To: [Cownie, Frank](#)
Subject: bylaws amendments
Date: Thursday, November 12, 2015 4:56:44 PM
Attachments: [ICLEI USA Bylaws 2012 -with draft amendments- jb5oct15.doc](#)

From: Matt Connolly
To: [Cownie, Frank](#)
Subject: west side chamber bus economic development tour
Date: Wednesday, September 06, 2017 10:59:50 AM
Attachments: [DSMWSC Econ Bus Tour 2017 final.pdf](#)

Hello Mr. Mayor. I know our director has reached out to you and I thought I would as well. We would love to have you on board Friday if possible, thanks for considering. Have a great rest of the week.



Please note: You are important to us, and so is your financial and electronic security. Email is not secure or confidential, and Iowa Realty will never request that you send funds or nonpublic personal information, such as social security numbers or credit card numbers or bank account and/or routing numbers, by email. If you receive an email message concerning any transaction involving Iowa Realty, and the email requests that you send funds or provide nonpublic personal information, do not respond to the email and immediately contact Iowa Realty. To notify Iowa Realty of suspected email fraud, contact: Fraud@IowaRealty.com

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Economic Development Bus Tour

Friday, September 8th, 2017

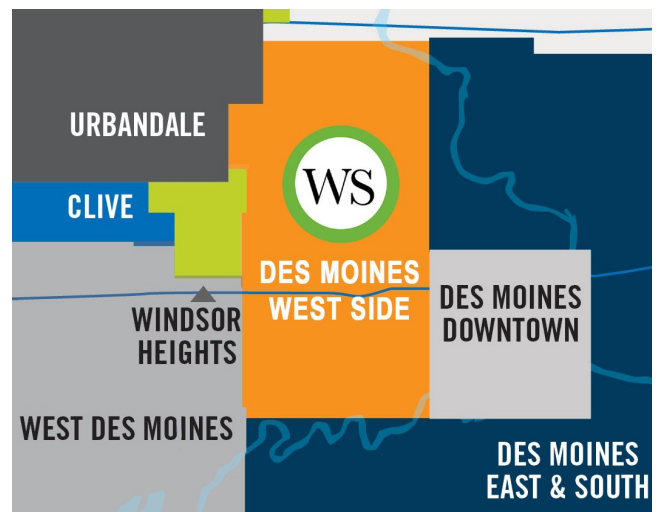
Bus Tour: 10:00 AM - Noon

Optional Lunch: Noon - 1:00 PM

Tour Starting and Ending Point: The Haymarket Mall South Parking Lot at Merle Hay Road and Aurora Avenue

Just north of the Merle Hay Mall - South side of Hobby Lobby & Felix and Oscars

Join us for an Economic Development Bus Tour of the Des Moines West Side. The narrated tour will take us through the Beaverdale area, Merle Hay Road area, Drake University, Uptown Shopping Center area, the Roosevelt Cultural District, The Avenues of Ingersoll & Grand, MLK Jr. Pkwy, and the Douglas Ave. Corridor. You'll hear and see what projects have been recently completed, are currently in process, and what is proposed concerning the economic development and improvements in these areas. Come enjoy the ride with other business leaders compliments of DART and our sponsors.



Des Moines West Side Chamber Commerce
 558 28th Street - Des Moines, Iowa 50312 - (515) 850-1847
www.desmoineswestsidechamber.org
director@desmoineswestsidechamber.org

From: Sally Dix
To: [A. J. Johnson \(ajohnson@urbandale.org\)](mailto:A.J.Johnson@urbandale.org); [Andy Lent \(alent@carlisleiowa.org\)](mailto:Alent@carlisleiowa.org); [Bill Peard \(billpeard@iacable.com\)](mailto:BillPeard@iacable.com); [Bob Andeweg \(rdza@nyemaster.com\)](mailto:BobAndeweg@rdza.nyemaster.com); [Bob Brownell \(robert.brownell@polkcountyia.gov\)](mailto:Robert.brownell@polkcountyia.gov); [Bob Kling \(bob.kling@simpson.edu\)](mailto:Bob.Kling@simpson.edu); [Bobbi Bentz \(bobbibentz@hotmail.com\)](mailto:bobbibentz@hotmail.com); [Brett Klein \(bklein@windsorheights.org\)](mailto:BKlein@windsorheights.org); [Brian Lohse \(Brian.K.Lohse@gmail.com\)](mailto:Brian.K.Lohse@gmail.com); [Christine Hensley \(hensley.chrissteve@gmail.com\)](mailto:hensley.chrissteve@gmail.com); [David Jones \(djones@ankenyiowa.gov\)](mailto:djones@ankenyiowa.gov); [Diana Willits \(dwillits@windsorheights.org\)](mailto:Henderson.D.@windsorheights.org); [Eric Hanson \(ehanson@cityofindianola.com\)](mailto:ehanson@cityofindianola.com); [Cownie, Frank](mailto:Cownie.Frank@polkcity.org); [Lorenz, G.](mailto:Lorenz.G.@altoona-iowa.com); [Mahannah, Gary](mailto:Mahannah.Gary@polkcity.org); [Jason Morse \(jimorse@polkcity.org\)](mailto:jimorse@polkcity.org); [Jeff Mark \(jeffma@altoona-iowa.com\)](mailto:JeffMark@altoona-iowa.com); [Jim Sandager \(jsandager@wealthenhancement.com\)](mailto:jsandager@wealthenhancement.com); [Sanders, J.](mailto:Sanders.J.@cityofbondurant.com); [Keith Ryan \(kryan@cityofbondurant.com\)](mailto:kryan@cityofbondurant.com); [Kelley Brown \(kelbrown@ci.grimes.ia.us\)](mailto:kelbrown@ci.grimes.ia.us); [Kelly Shaw \(kshaw@cityofindianola.com\)](mailto:kshaw@cityofindianola.com); [Kyle Mertz \(kylem@fbanda.com\)](mailto:kylem@fbanda.com); [Mark Wandro \(mark.wandro@polkcountyia.gov\)](mailto:mark.wandro@polkcountyia.gov); [Marketa Oliver \(moliver@norwalk.iowa.gov\)](mailto:Marketa.Oliver@norwalk.iowa.gov); [Paula Dierenfeld \(psd@nyemaster.com\)](mailto:psd@nyemaster.com); [Robert Miller \(rmiller4448@gmail.com\)](mailto:rmiller4448@gmail.com); [Ruth Randelman \(ruthrandelman@aol.com\)](mailto:ruthrandelman@aol.com); [Scott Cirksena \(scott.cirksena@pacar.com\)](mailto:scott.cirksena@pacar.com); [CityManager; Skip Conkling \(Conkling_8@msn.com\)](mailto:CityManager@conkling.8@msn.com); [Steven Gaer \(steve.gaer@wdm.iowa.gov\)](mailto:steve.gaer@wdm.iowa.gov); [Tim Moerman \(tmoerman@waukeel.org\)](mailto:tmoerman@waukeel.org); [Tom Armstrong \(tom@rainbowofia.com\)](mailto:tom@rainbowofia.com); [Tom Hadden \(Tom.Hadden@wdm.iowa.gov\)](mailto:Tom.Hadden@wdm.iowa.gov); [Tom Phillips \(mayor@norwalk.iowa.gov\)](mailto:Tom.Phillips@mayor@norwalk.iowa.gov); [Tony Timm \(ttimm@WindsorHeights.org\)](mailto:timm@windsorheights.org)
Cc: [Dave Stone](mailto:Dave.Stone@bravogreaterdesmoines.org)
Subject: Bravo Greater Des Moines Update
Date: Monday, February 16, 2015 2:26:16 PM
Attachments: [2015-18 Bravo Strategic Plan.pdf](#)
[Bravo FY15 CCP Awards.pdf](#)
[Bravo FY14 Audit Report FINAL.pdf](#)



Last fall, I presented to your city council about Bravo Greater Des Moines' accomplishments for 2014 and our plans for 2015. During that presentation, I shared that Bravo was undergoing strategic planning to review past performance and set future direction. The final plan was completed and approved by the Bravo Board of Directors in December.

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Sally Dix

Attachments: Bravo 2015-18 Strategic Plan, FY15 Capital Campaign & Project grant awards, FY14 Bravo Greater Des Moines audit report.

Sally Dix

Executive Director

Bravo Greater Des Moines

2600 Grand Avenue, Suite 120 | Des Moines, IA 50312

515.243.0388

sally@bravogreaterdesmoines.org

From: [Sanders, Scott E.](#)
To: [Bill Gray](#); [BobM@fngi.net](#); [Coleman, Chris](#); [ColemanSeven@mchsi.com](#); [Cownie, Frank](#); [Gatto, Joe P.](#); [hensley.chrissteve@gmail.com](#); [Mahaffey, Robert L.](#); [Moore, Skip](#)
Cc: [Sanders, Scott E.](#); [Anderson, Matthew A.](#)
Subject: Convention Hotel
Date: Sunday, February 15, 2015 7:24:28 PM

Mayor and Council,

I want to provide a recap of our discussions in regards to the Convention Hotel project.

In rough numbers the project is now priced at \$95 million.

Funding for the project is proposed to come from:

\$30 mill First Mortgage

\$20 mill EB-5 loan

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\$0.75 mill Brownfield grant

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I am comfortable recommending #1 with the caveat that we could instead simply contribute \$14 million if we issue GO TIF. Again, this allows us to keep the upside in tax growth.

I am also comfortable recommending #2 with the understanding that these are revenue bonds with no rights to property taxes.

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The City gets to keep the increase in H/M taxes which are estimated at \$300,000 annually increasing over time. Also, if the City is able to successfully pass a local option sales tax the added benefit would be significant.

All said, I am recommending that this project be advanced. If ever there was a chance to get this hotel built, it is with these partners and the funding stack shown above. The focal issue is how this new hotel might impact other existing hotel properties. You know best how much pressure the existing hotel owners might put on you. The success of this hotel will depend on attracting higher value products to Wells Arena and Hy-Vee Hall that have out-of-town attendees that need more hotel rooms than this hotel can accommodate. I believe there is a high likelihood of that happening.

I will be checking in with everyone on Wed/Thur to see if it remains on our agenda. Note, the timing is driven by the need to have our final application to the State submitted by the end of the month.

Please remember to not Reply to All as that would constitute an improper meeting.

Scott

From: Brenda Lawrence
To: [Cownie, Frank](#)
Subject: for those who marched
Date: Saturday, March 07, 2015 10:01:21 AM



Friend --

Today, I will be traveling with a Congressional delegation to Selma, Alabama to commemorate the great marches that took place there 50 years ago in 1965.

As a young girl growing up in Detroit, I witnessed the struggle for civil rights and the role it played in shaping our nation, as well as the impact that heroic fellow Detroiters played in supporting the struggle for equal rights.

Fast forward to 2015. Much has occurred since the spirited marches that led to the passage of the Voting Rights Act of 1965. Today, that seminal act of our democracy is under attack.

[Join me to stand up for voting rights and call for action by Congress to protect voting rights for all Americans.](#)

In far too many communities across our great nation, registered voters are confronted by a variety of unfair measures. They include photo ID regulations and baseless allegations of voter fraud.

As we remember those who fought — and in some cases, died — for the right of *all* Americans to vote, we must remember that the right to vote is fundamental to the fabric of American democracy, and that we must do everything in our power to protect it.

[Let's ensure that those who came before us have not worked in vain. Call on Congress to protect voting rights for all Americans!](#)

Thanks,

Brenda

P.O. Box 3060
Southfield, MI 48037



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POWERED BY [NGP VAN, INC.](#)

From: [Sanders, Scott E.](#)
To: [Bill Gray](#); [BobM@fngi.net](#); [Coleman, Chris](#); [ColemanSeven@mchsi.com](#); [Cownie, Frank](#); [Gatto, Joe P.](#); [hensley.chrissteve@gmail.com](#); [Mahaffey, Robert L.](#); [Moore, Skip](#)
Subject: FW: Bravo Greater Des Moines Update
Date: Saturday, February 21, 2015 4:04:50 PM
Attachments: [2015-18 Bravo Strategic Plan.pdf](#)
[Bravo FY15 CCP Awards.pdf](#)
[Bravo FY14 Audit Report FINAL.pdf](#)

fyi

From: Sally Dix [<mailto:sally@bravogreaterdesmoines.org>]

Subject: Bravo Greater Des Moines Update



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To: [Cownie, Frank](#); [Gatto, Joe P.](#); hensley.chrissteve@gmail.com; [Mahaffey, Robert L.](#); [Moore, Skip](#)
Cc: [Burmeister, J.](#); [Noth, W.](#)
Subject: RE: Convention Hotel
Date: Monday, February 16, 2015 10:25:55 PM

Here is the recent detail on the Hotel project.

County is talking with Weitz to see if they might have a better option for building the project. Therefore the final numbers on the costs and the financing remain a little illusive.

On the financing front, the ask of the City now has four pieces to it.

1. The City is being asked to issue \$9 million in GO TIF Bonds (20-yr term). This amount will count against our Debt Limit and the payment will come from the Hotel property taxes which will have a minimum assessment agreement around \$38 million.
2. The City is being asked to issue \$5 million in GO TIF Annual Appropriation Bonds (10-yr term likely). Only the annual debt service amount will count against our debt limit and the payment will come from the Hotel property taxes same as #1. Note total between #1 and #2 is still \$14 million coming from TIF and yet the minimum valuation is now higher. This will allow us to utilize less than 80% of the project generated TIF over 20 years and keep the upside as the valuation increases over time! The remaining TIF will be available for improvements such as the skywalk, streetscape and at the parking garage at 5th and Keo.
3. The City is being asked to issue \$4 million in Urban Renewal Revenue Bonds that are secured with a first-lien on the IRA (State funding). No property tax pledge would be made on this debt. Local investors would purchase this debt allowing for double exemption. **NO CHANGE TO THIS PIECE** unless they are able to raise more in which case we would issue the higher amount. This amount does not count against our debt limit because they are revenue bonds.
4. The final request is for the City to guarantee \$5 million of the \$20 million EB-5 loan due in 6 years. This \$5 million will count against our debt limit along with the \$9 million in #1 above for the same impact of \$14 million as before. The EB-5 debt payments are coming from the Hotel cashflow. Our guarantee would shrink over time as the Hotel surplus cashflow is placed in an escrow to pay-off the EB-5 debt. Refinancing of the original mortgage and the EB-5 in year 4 of operations should occur with one new mortgage amounting to around \$45 million. **This piece does have risk; in that if the hotel operates poorly and it can't support a \$45 million mortgage refinancing in year 4 of operations, the City would have to issue up to \$5 million in new GO TIF Bonds to pay-off a portion of the EB-5 financing.** If we find ourselves in this situation, the County will have very likely made contributions of their own via their \$20 million guarantee. Again, the proforma anticipates surpluses over the first four years that amount to nearly \$4 million in total and a refinancing should be possible at \$50 million.

As the deal gets closer to materializing, it is becoming more complex. But I can now say that I am comfortable in recommending the above financing solution as presented. Changes from the previous scenario include additional TIF revenues with the higher valuation, splitting of the \$14 million in TIF into two pieces, and the \$5 million guarantee of EB-5.

Scott

Jon, please update debt numbers reflecting changes for #1 and #2 above. Note \$38 million is assessed valuation leading to a \$34.2 million Taxable valuation which should increase over time if we need to show increasing debt service over 20 years.

From: Sanders, Scott E.

Sent: Sunday, February 15, 2015 7:24 PM

To: Bill Gray; BobM@fngi.net; Coleman, Chris; ColemanSeven@mchsi.com; Cownie, Frank; Gatto, Joe P.; hensley.chrissteve@gmail.com; Mahaffey, Robert L.; Moore, Skip

Cc: Sanders, Scott E.; Anderson, Matthew A.

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